THE ESTABLISHED GOVERNMENT OF ENGLAND,

Vindicated from

All Popular and Republican

Principles and Mistakes:

With a Respect to

The Laws of God,

Man, Nature and Nations.

By *Fab. Philipps* of the *Middle-Temple*, Esquire.

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Vindicated from

All Popular and Specious Misrepresentations

With a Reflect to

The LAWS of God,

Man, Nature and Nations.

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OXFORD.

To the Sacred Majesty of

James the Second,

King of great *Brittain*, *France* and *Ireland*, Defender of the Faith, *&c.*

Dread Soveraign,

WHen the Oaths of Allegeance and Supremacy (the greatest Tyes and Obligations that can be imposed upon the Generations of Mankind) have so little prevailed, as that the giddy and mad-headed Multitude, prone to all wickedness, and evil Examples, have under an Hypocritical pretence of Holiness; and Reformation of that which was good, and needed it not, introduced an abundance of unclean Spirits, and brought forth that which was altogether like their Tutors and Masters of Impiety, and with great impudence, pertinacity, secret and subtil contrivances after His late Majesties happy Restauration, continued their Machinations and Rebellious Principles until his Death, who notwithstanding his great Clemency, and many Plots discovered by Gods mercy, by the continual vigilancy of his Guards with all the care that could be taken, was for a long time hardly preserved from Assassination, which Villanies and Dangers consorted so well with their Ambitions, and Envies, Rapines, Plunderings, Sequestrations, Decimations, and pillaging of three Kingdoms, especially of *England*, besides the sad accompt to be made of the Massacre in *Ireland*, destruction of many Thousands in *England* with their Fa-

milies and Eſtates, in the defence of your Majeſties bleſſed Father the Martyr, with that horrid,& ever to be abhorred Addition of his Murther, and the long continued Miſeries,Calamities and Troubles,put upon their Late Soveraign your Royal Brother, & your Majeſty, and the reſt of the Royal Progeny, as they, or too many of them,or their Seditious and Rebellious Party, may not improbably ~~at~~ thought only to watch or enforce an opportunity of playing the ſame, or a worſe game of Rebellion over again, and if they can, to a more impious advantage, ~~and bed~~ plant a ſoveraignty inherent in the people, whom they intend to govern as arbitrarily and wickedly as they had done before, which a lamentable many years Experience hath taught the people to believe it to be abundantly Tyrannical and Slaviſh enough to thoſe that were made ſo unhappy as to endure and Experiment it, which to prevent, is, and ſhould be certainly the duty of every good Subject and Lover of his King and Countrey.

In order wherunto, having made my Obſervations and Remarks, from the Commencement of the grandeſt Rebellion that ever troubled and haraſſed *England*, in the years 1640, 1641. until his preſent year of the Lord 1685, now the 83 year and an half of my yet (*Deo gratias*) *vividæ ſenectutis*, many years before for the moſt part written, and as well digeſted as many diſturbances, and worldly troubles would permit, which could notwithſtanding never alienate or withdraw my mind from thoſe my firſt Enquiries or Obſervations; And my careful, and I hope, induſtrious and impartial Recherches into the Original and true power of Parliaments,will ſhew how the Incroachments of a miſelected Houſe of Commons therein, have ſince the Raigns of Qu. *Elizabeth* and K.*James*,made it their principal and only buſineſs by Petions, Ingrateful Lurches,and Artifices and catching Advantages of our Kings & Princes,neceſſarily enforced want of Money, for the defence of themſelves and their People, to undermine and bring into an Anarchy, or Inſulting Poliarchy, this your heretofore more flouriſhing Monarchy, ſtrongly built and founded upon the Feudal Laws, derived unto your Majeſty by and from your Royal Anceſtors and Predeceſſors, from the Britiſh, German, Saxon, Daniſh and Normans Feudal Laws and Cuſtoms, the beſt Eſtabliſhers and Supports of a truly

truly (not counterfeit) Monarchick Regal Government, and doubt not but that my Labours and Travel therein, with what other Light and Confirmations may be juſtly added by ſuch as will well Weigh and Conſider it, may truly Manifeſt and Prove the ſame, and without the ſuſpicion of an over-credulity, well believe that the Reverend Judges and Sages of the Law (whom our Kings have Commanded and Ordained to be greatly reverenced, adminiſtring Juſtice under you to your people, many of whom, and the profeſſors of the Law, pleading before them, were only Educated, and practiſed as Lawyers in the time of the late miſguided Parliament,)might have been eaſily miſ-led by the *Minores Gentium*,the Lawyers and Officers pleading or practiſing in the Courts of Juſtice, by rejecting the Councel of the Prophet *Jeremiah*, *Stare ſuper vias Antiquas & inquirere Veritatem*, which his lamentations after their deſtruction, might have taught them ~~after~~ ſooner to have believed, and not to have the original of your Majeſties Government, to be as Inſcrutable as that of the River *Nile*, or to forget their Common Parent or Original, as in many things to make or render our Laws to have no Reſemblance thereof,but to be quite contrary thereunto, or as ſome Children, in the Stories or Tales of eaſily believing old Women changed in their *Cradles*; all which ſhould put every good Subject in mind neither to be ignorant of your Rights, or negligent in the maintenance of them, it being of no ſmall concernment to your People,to preſerve yours with as much care as their own, being comprehended therein, and when he ſhall hear the Ship wherein his King is, ſtrugling with the rage and fury of the Winds and Seas, and every minute like to be deſtroyed and ſwallowed up, ought to make haſt *tenui ſua Cymba*, and do all he can to relieve and preſerve him, of what Judgment and Diſpoſition ſoever he be, though not at all under thoſe great obligations, of the Oaths of Allegeance and Supremacy, and of the bonds of gratitude, muſt *exuere humanitatem*, that will not endeavour to reſcue him, and in theſe my feeble, but true hearted endeavours, found thoſe that inſtead of ſaving the Ship, were only careful to Sacrifice to their own deſigns, and divert and ſteer her from the right Port of Monarchy,

whilſt

whilſt they laboured all they could to ſave her by bringing her only into the Curſes rather than Bleſſings of an *Anarchy* or knaviſh ſelf-enriching *Poliarchy*, and ruine all thoſe that really and heartily without any other ends than that of duty and endleſs Loyalty, came to help her; and not by ſo many Plots and Conſpiracies againſt your Government and Monarchy, and the lives of your Majeſty and Royal Brother, give a far greater diſturbance thereunto than the unhappy ſeverely puniſhed *Corah*, *Dathan*, and *Abiram* did to the Government of *Moſes* and *Aaron*, who did but only murmure againſt them, ſaying, *Ye do take too much upon you*, but did not plot or contrive Treaſons, Conſpiracies or Rebellions againſt, or to Aſſaſſinate or Murder them; From all which diſturbances and troubles, that God will be pleaſed whilſt you are on Earth, enjoying a happy life amongſt an unquiet (as unto too many of them) never to be contented people to ~~free~~ your Majeſty, your Heirs and Succeſſors ſhall (as it hath ever been) be the prayers of

Your Majeſties

always Conſtant

and

Obedient Subject

FABIAN PHILIPPS.

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PREFACE TO THE READERS.

THey that have read and duly conſidered, though but with an ordinary compaſſion and ſenſe of humanity, the diſmal Effects of Wars, Rebellions and Diſcords in Kingdoms and Republicks, and the little gain more than a Sacrifice to the Devil, and the Ambition, Revenge, Self-Intereſt, and the Ruine of Kingdoms, Commonwealths, Families and Eſtates, might, if there had been no other evidence, have clearly and lamentably ſeen it in thoſe once very famous Republicks of *Athens* and *Sparta* in the *Pelepone-ſian* Wars, ingaging moſt of the little Republicks of *Achaia* to run the adventure with them, and did in the concluſion bring them all together under the Tyranny of the *Ottoman* Empire; in thoſe alſo of the Mercileſs Proſcriptions of *Sylla* and *Marius* at *Rome*, and the bloody *Pharſalian* Fields or Battels fought betwixt *Julius Cæſar* and *Pompey*, too nearly allied to have made ſuch a quarrel or buſtle to diſturb ſo great a part of the World for Empire: that of the *Guelphes* and *Gibelines* happening near about the time of our King *John*, when the Pope ſo domineered over him, as he conſtrained him to do homage unto him for *England* and *Ireland*, and pay him a then great yearly Tribute; that of our two great contending Families in *England*, *York* and *Lancaſter*, under the ſeveral Badges or Liveries, of the *White Roſe* & the *Red*, to the deſtruction of many of the Nobility and Gentry taking their ſeveral parties, that of the *German* Wars betwixt the Duke of *Saxony* and the Emperour *Charles* the 5th, that of the *Sicilian* Veſpers, *Thucidides.*

that of the King of *Spain* and the *Netherlands* or united Provinces of the Holy League in *France*, and the cruel Maſſacre of ſo many thouſand Proteſtants in *Ireland*, and that our Incomparable late Rebellion of all the Rebellions the Devil had ever abuſed and Cheated a Nation withal, the moſt hypocritical, horrid and abominable, and the juſt care that every pious and good man ought to have of his King and Oaths of Allegeance and Supremacy, and the Bleſſings of God to attend his poſterity, might cauſe them to make as much haſt as the dumb Son of King *Cræſus* did to ſave the life of the King, and therein prevent the Ruine of his Countrey.

And therefore I may hope that a *Minimus Apoſtolorum*, one of the leaſt Profeſſors of the Law, though of an ancient ſtanding, may be permitted without the reproach of Arrogance or ſcribling quiddities or Impertinences, or troubling the World with the Idea's of *Plato*, *Ariſtotle*, *Solon*, *Licurgus* or the unquiet Commonwealth of *Rome*, until they were after the Experiments of divers ſorts of Governments conſtrained to be more quiet and content with that of the Empire and Monarchy or *Theocracy* ordained by God, be permitted to lay or bring before the Reverend Judges and Sages of the Laws of *England*, and the Profeſſors and Students of the Laws therein, what may be found in the Records, Annals, and approved Authors and Hiſtorians concerning the ancient *Feudal* and Monarchick Government thereof, without any Additions, Omiſſions, wreſted Interpretations, Forgeries, Impoſtures, or the fond and often abuſed credulity of Monkiſh and feigned lying Manuſcripts, & may incite others to approve and like better of it than they have done, that have to the hazard of their Eſtates in this World and the World to come, done all that they could to pull in pieces that ancient Government upon which all our Laws, reaſonable Cuſtoms and Conſtitutions with Remedies for publick grievances have been built and founded, which Sir *Edward Coke* hath (before the diſſolution of our Tenures in *Capite*, the Ligaments of the Crown of *England*, and the nerves, ſinews and ſtrengths thereof, when he was better pleaſed with his Soveraign) not unjuſtly called the Quinteſſence of all Laws, expended very near 1000 *l.* Sterling in my labours and travails therein, and other matters concerning the Government

Government without any penny profit or recompence either from or by the Stationers, or any others more than an Employment as Deputy Comptroller of the Law Tax, wherein I endeavoured all I could to ſerve his late Majeſty and the Farmers thereof, and may hope it was acceptable when his Majeſty not long before his departure out of this World, was by his principal Secretary of State Sir *Leoline Jenkins* Knight, graciouſly pleaſed to declare that he had a particular regard for me, and was ſenſible of the many Services which I had done unto the Crown, which in the greateſt of truth, humility and modeſty, I might have ſaid was done by me one of the ſmaller ſort of the Atoms in his Kingdoms as an oblation of Duty, when beſides my no ſmall loſs and damage in the late horrid Rebellion I did adventure with the late learned *George Bate* Dr. of Phyſick, and Mr. *Nicholas Odeart* ſometimes Secretary to Sir *Edward Nicholas* principal Secretary to the murthered King, did, when the Rebels had refuſed to allow him in his own defence the aſſiſtance of his own or any other Councel learned in the Law, at that they falſly called his Tryal, & when the Interceſſion of the *French* and *Dutch* Embaſſadors, the *Scots* their Rebel partner Commiſſioners, and ſome of the *London* factious Miniſters could not prevail to reſcue his ſacred life, did with great danger and hazard of our lives and Eſtates cauſe a ſmall paper of Advice to be ſecretly delivered unto him, not to acknowledge any juriſdiction to be in their highly wicked miſnamed Court of Juſtice, never before heard of or made uſe of in *England* or in any other Nation of the World. And I did alſo after that wicked of wickedeſt ſentence of death pronounced againſt my Soveraign, Write and cauſe to be Printed and affixed upon the Poſts and publick places, in or about the Cities of *London* and *Weſtminſter* a Proteſtation in the name of all the Loyal people of *England* againſt that moſt abominable ſentence, and did within a ſhort time after Print and publiſh a Book in Juſtification and defence of him, and the firſt as I believe that in print juſtly ſtiled him a *Martyr* for his people, with ſome aſſurance to my ſelf, that our *ſeri Nepotes* ſome others hereafter walking *recto tramite* in the like ſearch and path of truth as I have done, might add more aſſiſtance thereunto, and may be permitted to ſay, as St. *Paul*

in

in another caſe did of himſelf, that if I have had in ſo long an age and perambulation of time any acquaintance or converſation at all with my ſelf, mine own heart and Actions, which many that have known me ſo long in my various careful and ſorrowful paſſages of life (occaſioned by many the ingratitudes and ill dealings of ſome great families and others that ſhould have dealt better with me in) may teſtify my always conſtant and adventurous Loyalty to my Soveraigns, without any the leaſt fainting or hæſitation, will or may believe that I have neither lied or ſought for preferment, or any thing that could look otherwiſe than the ſincerity of my heart, and an unſhaken and unbiaſſed love to Truth and Loyalty to my King and Countrey.

And can truly ſay and aver with many witneſſes to confirm it, that my long obſervations ever ſince the year 1628. until now, compleating almoſt full 46 years of the ſaid perſecutions, diſloyalties, miſuſages, and ſufferings of King *Charles* the Martyr in order and deſign to his Murder, and the many Plots afterwards intended againſt his late Royal Majeſty, King *Charles* the ſecond, and his now Sacred Majeſty, and my *Reſearches* into the Records and Antiquities of this and other Nations concerning the Juſt Rights and Prærogatives of our Kings and Princes, for the publick good, and the avoiding the manifold miſeries and damage that attend the Witchcraft and Madneſs of Rebellion, and to the end that I might recal into the right way of truth thoſe very many Noble, learned, grave and pious men, that perfectly hated Rebellion and yet by fear or force going along with the Tide to ſecure themſelves and Eſtates as well as they could, and with the Vulgus and Rabble that had cut the reformed Church of *England* into no leſs than 160 Sects or new faſhioned Religions, and ſo far ſtrayed from their Mother the reformed Church of *England*, as they ran out of their Wits as much as their Religion, ſo that they could not ſtop themſelves in that their mad Career until they came to an opinion that it was *Religion* to be *Rebellious*, and that Rebellion or Sedition for any thing called *Religion* was, or at leaſt ought to be warrantable by ſome or other word of God, when by his *new light* they ſhould be enabled to diſcover it, hath given me, like old *Barzillai*, no quiet until I had done my

duty

duty unto God, my King and my Countrey and posterity, and brought what help I could unto our much injured and persecuted *David*, in these now published Truths, wherein I have as carefully as I could without the purchase of other mens Writings or Manuscripts at *Auctions*, as too many our Lurching, yet Learned enough Authors have done, weighed all particulars in the Ballance of Truth, Law and Right Reason, and without any *opiniatrete* have left my self to the Judicious throughly impartial Readers and *Tryers* of those my carefully considered Labours, wherein I shall be willing to rectify and submit to any truths, when justly and rationally proved, and be ashamed in the least to imitate those impudent Contrariants of truth and Right reason, our Laws, Annals and Records, who although in their Books and Writings against our ever maintainable truths, whilst they are in the acting and perpetrating the greatest Injuries imaginable unto them, can offer to forsake their evil Impostures, grounded Fancies and Opinions, yet can after they have been publickly examined, tryed and convicted of several gross Impostures and falsifications by the undeniable evidence of the Records themselves, which they cited and referred themselves unto, not like to those better men of Confessions and Retractations, but being unwilling it seems either to perform their promises to their Readers, or imitate the more honest examples of better men, have thought it to be more correspondent unto their evil designs not to discourage their Disciples to persist in their egregious falshoods, and unlearned, foolish, reasonless, senseless and inconsequential arguments, because they have wickedly made it their Interest and business to advocate the Devils cause by his and their evil Methods and Impostures. And may find that they have by a Factious and Seditious Ignorance, and overbold adventure enticed many good men and Lawyers out of the paths of truth into an horrid Confusion and Rebellion, for which they may suffer in the next World, unless they can furnish their gross mistakes with some invisible or misinterpreted Record that every man may fancy, and frame a new and better Government of the Kingdom, and carve and make his own Religion, and Idocize and propagate their own vain imaginations and self-lreated ignorant Fancies instead of Laws and Records.

And ſhould do better to ſtand and conſider that the advice of the Prophet *Jeremy*, that ſhould not be thought to have ſpoken vain, untrue or fooliſh Councel, *to ſtand upon the old ways and enquire after the ways of truth*, was not to do what you can to blind or ſophiſticate truth, put her into diſguiſes, and transform her into as many ſhapes as may conſort with the ugly deſigns of Faction and Rebellion, and call to mind better than they do how diffuſive and infectious the ſin of Rebellion is, that every of our evil Examples, Doctrines or Perſwaſions tending thereunto, ſuch an evil eſpecially as Sedition or Rebellion, are by God chargeable alſo upon their accompt And that at the great Audit before an all knowing God there will be a multitude of conſequential Evils beſides their own particular ſins, which may be enough charged upon them, when it will be too late to ſay one unto another as St. *Paul* did to his *Innovators*, *O ye fooliſh Galathians, who hath bewitched you?*

And amongſt thoſe many motives and obligations of Duty and Loyalty, Oaths of Allegeance and Supremacy to my Soveraign, and compaſſion unto thoſe multitudes that have erred and gone aſtray, to the end that I might give an accompt of the truſt repoſed in me particularly, and ſolely by his late Majeſty, under his ſign Manual, bearing date the 30th day of *September*, in the 28th year of his Raign, with full power and Authority to ſearch and take Copies of all or any might be found concerning his Royal Rights, which was ſeconded by an order of the Right Honourable *Arthur* Earl of *Angleſey* then Lord Privy Seal, Mr. *Henry Coventry*, and Sir *Joſeph Williamſon*, his then Secretaries of State, and Sir *George Carteret* being all of his Majeſties Privy Council, who did by their order dated the 3d. of *July* 1677. direct and authorize Sir *William Dugdale*, ſince *Garter* King at Arms, *Elias Aſhmole* Eſquire, and my ſelf in purſuance of his Majeſties Order dated the 23. of *February* 1675. authorizing the aforeſaid Lords of his Councel, *to examine the State and Condition of the Records in the Tower of* London, *and conſider what is wanting and neceſſary to be done for the preſervation thereof, Authorizing us to examine the preſent State and Condition of the ſaid Records, and peruſe as well the Orders for regulating of the Orders of the Keepers of the ſaid office*

of

of Records, as the Orders made by Sir Algernon May, *Keeper of the ſaid Records the firſt day of* December *then laſt paſt, and to conſider what additions and allowances they ſhall judge fit to be made, either in the ſaid Orders or Queries, or what otherwiſe occurs to them fit to be offered for the better ordering, methodizing, preſervation and ſafe keeping of the ſaid Records, and that they make report thereof unto us with all convenient ſpeed, and their opinion what is neceſſary to be done in order to the attaining the ends aforeſaid,* in obedience whereunto Sir *William Dugdale* and I have not only made a Certificate and report unto their Lordſhips what we had done under our hands, but afterwards at the aforeſaid Office of the Records, have given a meeting to ſome that were appointed by their Lordſhips, and after that in the abſence and ſickneſs of the ſaid Sir *William Dugdale*, by the Command of the ſaid *Earl of Angleſey*, I did attend his Lordſhip and the Lord Chancellor, and divers of the ſaid Lords of his late Majeſties Privy-Councel, to the ſaid Office of Records in the Tower of *London*, thoſe *Scrinia Sacra Publicæ Tabulæ* which our Great *Selden* ſaith is a *Religio* to preſerve, and the Commons in Parliament in the 42 year of the Raign of King *Edward* the 3d petitioned to have a free acceſs unto, becauſe they contain the peoples evidence, and might alſo have ſaid their Kings and Princes Rights and Power to protect them, and therefore to have them well looked unto and preſerved, muſt needs be an univerſal concernment both unto our Kings and their People, and though here in *England*, in the time of our long and factious Parliament Rebellions and Miſeries, when I firſt began to ſearch into the Original of our before happy Government and continuance of our Laws, Peace and Plenty, and the excellent frame and conſtitution of our Government founded upon no other than the Feudal Laws, which, unto any that will take the pains to peruſe and examine them, will make it eaſily appear, that our *Britiſh*, *Saxon*, *Daniſh*, and *Norman* Laws, and thoſe of all our ſucceeding Kings and Princes, and the Proceſs, Proceedings, Maxims, Rules and Methods in and through all the parts thereof, have until our late unfortunate, Factious and Seditious times, and Parliament Rebellion (the tricks of Attorneys, unskilful

skilful Clerks, and ſubordinate and corrupt Officers, ſince thoſe times of unhappineſs only excepted) had no other ſource or fountain; and that the Civil and *Cæſarean* Laws being long ago accompted to be the univerſal reaſon of the World, are and have been in their *Patroni* and *Clientes* near allied to our Feudal Laws, whereof the learned *Craguis* wrote his Book *de Feudis* in the year 1655. applicable to his own Countrey of *Scotland*, where they yet remain, notwithſtanding our unthrifty exchange of the Nerves and Ligaments of our Kings Crown and Dignity, for an Exciſe upon Ale, Beer and Syder, would not permit me to ſtand ſtill and let my King and Country be deſtroyed by ſuffering our Feudal Laws, the baſis and foundation of our Government, to be drencht or waſht in the *River Lethe*, or lake of Oblivion or the wild Boars and Foxes to deſtroy and lay waſt, and cauſe our once flouriſhing Kingdom under the Guard and protection of thoſe Laws, to be more transformed and abuſed than many of the ſacred Laws of God, given to his once beloved people of the *Jews* have been by their *Maſorites*, when they had a better excuſe and Apology to make by their captivity of ſeventy years in *Babylon*, until they had forgotten the language in which their Laws were written, than our Gentlemen of Innovation or Reformation, as it hath been *Nicknamed* or miſcalled of *Good* into *Bad*, or *Better* into *Worſe* for their own only advantage here upon earth, happen what will when they ſhall be able to attain unto or provide for themſelves.

And in theſe my Labours and impartial obſervations, with no little danger and ſorrow to ſee my King and Countrey ſo ill uſed, have been as tender as the *res Acta*, or matters related or inquired into, would permit without præprejudice or hurt unto the truth, or my Loyalty unto my Soveraign, with all due Reverence unto the Judges, many or the moſt of whom, when the fire of that Rebellion which had lain kindling and ſmoaking in its *Embrio's* in the years 1637, 1638, 1639 and 1640. began every where almoſt diſcernably to flame, and be very apparent and viſible, were either then *in prima Lanugine*, or had but ſcarcely ſaluted the *Oſtia* or *Limina Legum*, ſtept over the

the Treſhold or Door of it, as the vulgar term it, and intend as I have never failed to do, not only to do, but write and ſpeak of them with all Reverence becoming me, and all others according to the Reaſon and Rule which the great and prudent Prince King *Edward* the firſt ordained, when he declared in theſe words, *Et quia ſunt honor & Reverentia quæ miniſtris ipſius Regis ratione officii ſui fiant ipſi Regi attribuuntur, ſic dedecus miniſtris ſuis eidem domino Regi infertur*, and in my Relations concerning that high and very honourable, very uſeful and profitable for the weal publick *Houſes of Parliament* no man ſhould think or ſpeak diſhonourably ſo long as they permit *Parliaments* to be what *Parliaments*, according to their right uſe and Inſtitution were,nor ought to be no more than *Colloquium* or *Commune Concilium*, as may be further evidenced by that great Princes ſevere puniſhment of that great Baron *William de Breauſe* for contumelious words ſpoken to a Judge.

Regale Neceſſarium per Fabian Philipps.

Plowdens Commentum.

Fabian Philipps *Regale Neceſſarium &c.* Mich. 18. E. 3. *coram Rege.*

And King *Edward* the 3d had ſuch a care of his Juſtices and their authority, as he puniſhed ſeverely the Bayliffs of *Ipſwich* by the loſs of their places, cauſed their Staves of Office to be broken in the Court of Kings Bench, and their Liberties to be ſeiſed and forfeited becauſe they had ſuffered an unruly multitude to feaſt and revel with certain malefactors, who had been there condemned by the Juſtices of Aſſiſe, and after their departure made a kind of mockgame or interlude to be Acted upon the Tribunal, where the Judges had ſitten, and in mockery fined and amerced the Juſtices and their Clerks.

Mich. 19. E. 3. *coram Rege* Ro. 161.

And for that I would willingly be, as much as I could, Inſtrumental to recal a factious, ſeditious and Rebellious party out of their Errours, that they may neither perſiſt therein themſelves, or by erecting Schools of rebellion magnify and think themſelves to be no ſmall perſons in the propagation thereof, and in thoſe my travails not having the help as the learned Dr. *Brady* hath had of the publick Libraries of the Univerſity and Collegiate Libraries of the Univerſity of *Cambridge*, but of ſuch Aſſiſtance as his Majeſties and the publick Records of the Kingdom, unto which for more than 45 years I have been no Stranger, and

my own private Library could afford me, wherein I cannot be without hope but ſomething conſiderable may appear in my Labours that do not in his, but walking together in the inquiries after our Fundamental Laws have not contradicted, but concurred with each other in the Reſcue and diſcovery of the truth of our Ancient and excellent Government, and that which I have done might have been more exact if I had not by the no ſmall diſturbances of my own affairs and the common Falſhoods and Delays of moſt of the Printers been greatly hindred, ſo as I was in ſome part thereof to endure the diſadvantage of writing as the Printing Preſs went, and therein alſo could not eſcape ſeveral diſcouragements, and can, as *Livy* that grand Hiſtorian of the *Roman* Empire hath truly ſaid of his Enterpriſe, that it was *res magna & Ardua*, with great ſincerity ſay with the learned *Bracton*, *perpetuæ memoriæ commendium poſtulans a Lectore ut diligenter legat & bene conſideret, & ſi quid ſuperfluum aut perperam in hac opere invenerit illud corrigat aut emendet cum omnia habere in memoria; Et in nullo peccare divinum ſit potuis quam humanum.* And with the learned Dr. *Barlow* Biſhop of *Lincoln* to the like purpoſe as unto what he wrote againſt the Church of *Rome*, that if he had miſcited or quoted, added or omitted any thing or matter willingly againſt the truth, (Errors of miſinterpretation or definition and of the Printers only excepted) I ſhall be willing to reform any humane frailties or Errors of that kind that ſhall ſo appear unto any conſiderate impartial Reader that do not read it here and there a little, runing over as the Iriſh do their Bogs, or as ſome others do after dinner and in afternoons Nap or Slumber, or by Indexes, ſo as I may not prejudice that grand truth concerning the Juſt Rights of the Imperial Crown of *England*, and the Doctrine of the reformed Church of *England* againſt all the Engines of Rebellion, Falſities, Cavillations and Impoſtures that have been made uſe of againſt it and all their Loyal and Learned Propugnators that have done ſo worthily in our *Iſrael* to defend them.

Bracton *in proœmio.*

Wherein if any ſhall object and think I have been too copious, and fewer words and more labour might have been ſpared, they that have been converſant

with

with Books or the learned, or be themſelves learned, ſhould know that a little may be enough to ſome when a great deal will not be ſo for others, eſpecially where the Arch Enemy of Mankind hath ſown and planted Weeds, ſuch as Henbane and Night Shade in our Gardens amongſt our wholſom Herbs and Flowers, the Lillies of the Vallies, and the Roſes of *Sharon*, which will require much time and labour, and more than a few words to eradicate or pull them up, or a few moſt clear demonſtrations to a numerous party, the more is the pity, that for the ſpace of almoſt Fifty years laſt paſt have been ſtrangely effaſcinated and infatuated, and yet like well of it, becauſe they have enriched themſelves by turning Religion into Rebellion, and Rebellion into a part of that which never was any part of Religion, extravagant Religion is now made Liberty, and Liberty and Religion too much turned into Rebellion.

And our Laws and long approved good Monarchick Government, having by a ſeditious party of Rebels abuſing the Right power and uſe of Parliaments diverted our Antient, Juſt and True Laws out of their proper courſe and channel wherein they had bleſſed both our Kings and their People, I am not unlike to eſcape the raſh or envious cenſure of ſome that either have not read throughly as they ought, or miſread, or not underſtood our genuine, proper and true Laws, therefore ſhould be content with the duty of thoſe that have made it their endeavour either to vindicate the Rights of their King, or relieve a too much neglected unvalued truth, and be as much blamed as the Biſhop Elect of *Wincheſter* was in the time of the troubles and Impriſonment of King *Henry* the 3d. by ſome of his overgrown Nobility, when they wrote unto the Pope as bitterly as they could againſt him for maintaining the juſtice of his Kings cauſe, and when it may be heard of or read by ſome of our long miſled Lawyers that have for almoſt 50 years been ſuckled or nurſed up in a contrary practice, may take it to be a better way, and more agreeable to their genuine, at leaſt to their profit and humor of the preſent times to do as *Demetrius* the Silver ſmith did unto St. *Pauls* Doctrine, rather cavil and ſay ſomething againſt it to no purpoſe than

Additament. Mat. Paris. & Dr Brady *in Hiſtor.* H. 3. *in Appendix* 221. & 222.

then any thing concerning truth or cogent Arguments, yet it must be adventured with a *meliora spero*, and that the errors and mistakes of too many of our men of Law, and others may no longer as it were successively afflict our Nation, that the subjects may learn, understand and practise the duty of Allegeance and Supremacy, and not be so much out of their wits as to believe that there ever was a Treason committed by a King or Emperour against their people, or that the Members of the House of Commons in Parliament proceeding beyond their Limits, and the King and Peoples Commission, ought to be accompted the reason of the People, but that so many Advocates and Lawyers as *England* is and hath been abundantly replenished with, should rather make it their business strongly upon all occasions to defend their Kings Rights, which every man would expect of his stipended Lawyer, as the Advocates of other Kingdoms never fail'd to do.

Or can any man adventure to say or think, that the All-knowing Never-erring God did not intend to keep his word, but made one Vicegerent after that he had made, or promised it unto another, or ever made the Common People his Vicegerent, or any King, or Prince subject to their ignorances, mutabilities and Passions to be Arraigned and Murdered when they pleased at the suit of the People for Treason committed against them, or if any Nation, Record or History did or could ever furnish out such an example, when the Murder of our Prince did so stink, and was more than ordinarily abhorred and detestable, as besides many learned men in Forreign parts, publickly writing and declaiming against it the *Czars* or *Czar* of that great Empire of *Russia* or *Moscovia* were so sensible of it, as he banished and seized many of the *English* Merchants, and their goods and effects to the ruin of many of them, for no other cause than that as he said they had been Traytors unto their King, and had Murdered him, though they were then men of great Loyalty, and were not then Resident in *England*, and see, and read *Milton* over much learned in the School of his Master the Devil, and our infatuated Regicides publishing in print in our own and some Forreign Nations, a never to be believed or proved justification of the Murder of their most

Pious

Pious Prince, *ſub forma & figura judicii*, and no *Engliſh* men, but the Learned and Loyal Dr. *George Bate* and my ſelf with our names ſubſcribed, and another without publickly vindicated his worth and innocency, and not a Lawyer, or man of the *militia togata* could find either a conſcience or care *calamum erigere* to defend the honour of their King and Countrey, when they were bound by their Oaths of Allegeance and Supremacy not to have omitted it, when as *Advocati* they ſhould as *Linwood* hath told them in the caſe of an ordinary Client, *tanquam Athletæ in Campo juſtitio pugnare*, & not ſtand ſtill & hear all our Neighbour Chriſtians ſpeak of ſuch a villainous Murder with horror and deteſtation, and the learned *Zeiglerus* a Forreigner beſides *Salmaſius*, who had never taken our Oath of Allegeance and Supremacy, have publickly declared againſt, it.

And do hope that our learned Lawyers of *England* who were not before our now almoſt fifty years Parliamentary Rebellion willing to be outdone or believed to be leſs learned *in omni ſcibili*, or matter of learning in the Laws of their own or other Nations, (witneſs our Great *Selden* and many others) will not ſuffer our Laws which want nothing to illuſtrate their very antient original, to be ſo loſt and eclipſed, as there will be nothing of our Fundamental Laws left to furniſh their practice in the Temples and Courts of Juſtice, than ſuch fragments as the Attorneys Seminaries ſhall be pleaſed to furniſh them withal when they have ſqueezed the profit into their own advantages of all manner of Champerties and Ambodextryes, by clipping our venerable, juſt and antient Laws into ſuch parcels as may ſeem moſt for their wicked and reaſonleſs advantages, and ſhould be more than præmunired, and not to be reckoned much leſs peccant than the Clippers of *Cæſars* Coin or Image, or falſe Forreign Coin introduced into the Kingdom, in their daring to attempt to vitiate or violate their Kings Laws, and ſuffer *Milton* that underſtood no more of our Laws of *England*, than that which he had purpoſely Metamorphoſed to delude a ſilly part of the People, or *Rabſheka* it, defie the Hoſt of *Iſrael*; and *John Goodwin* a factious Miniſter with his Flambeau or Torch in the Pulpit, to intice all that could be ſo

mad as to believe them, that King *Charles* the Martyr was juſtly accuſed, condemned and beheaded at the ſuit of a few infatuated Rebels, and ſo many men of the long Robe not have Loyalty, care or Conſcience enough to haſten to the brook to find ſome ſtones to ſling at, and convince thoſe or any of their *Goliahs*, or hear a Judge deſervedly diſplaced by his late Majeſty King *Charles* the 2d. declare in the Court of Kings Bench, tell not us of old Records and Antiquities, but of the Law or Practice in or ſince 1641. And a Bencher of an Inns of Court perſwades himſelf that he had hit the mark, when he had ſaid that Antiquities were no more to be valued than old Iron picked up out of the Channel in *London* Streets, and ſold for a penny in the pound.

And Mr. *Milton* that would have all men have a liberty to be divorced from their Wives as much as himſelf was from true Learning and Reaſon, having done all and more than he could to blaſt and diſparage that moſt excellent Pious Prince *King Charles the Martyr*, and make his ever to be accurſed Murder to be according to the Laws of *England*, could not forbear perſecuting his *Manes*, whilſt he magnified the *Populum Anglicanum*, when all men had abhorred it, and *Bedingfield* and *Chreſheld* had voluntarily laid down their Commiſſions, and forſook their Offices and places of Judges, and the greateſt Rebellion did ride in its triumphant Chair, ſhall the Gentlemen of the long Robe, who might be very able to do, and ſhould be well acquainted with all manner of Learning, be ſo little concerned in it as to leave two Doctors of Phyſick to do what they could themſelves, for there were a Lion in the way, whilſt Mr. *Milton* cryed out as *Tully* in another caſe, *O fortunate nate me Conſulo Roma*.

And it would be a pity that ſo many Learned People in *England*, of ſeveral conditions, ſhould not rightly underſtand the Conſtitutions and Government thereof, but be ſo much miſtaken as to believe they are honeſt and Loyal enough if they can but get what they can from their King, and ſacrifice it to their humours, when the fear of God, and right underſtanding of our Laws may teach us, that our Oaths of Allegeance and Supremacy

premacy do ſignifie much more than the ordinary Oaths of the ſmaller ſort of the common people, who have as little wit as Eſtate, and a great deal leſs of Religion, and that our Laws from Age to Age have reſided in our Kings; who have always been accompted to be *tanquam Lex viva.*

Could there be ſo great a thirſt after learning and honour, and eſteem for it gained, could the Queen of *Sheba* travel ſo far to hear the Wiſdom of *Solomon*, and *Pythagoras* to hear *Plato*, *Philip* of *Macedon* give his *Gods* thanks that he had found out ſuch a Tutor as *Ariſtotle* for his Son *Alexander?* have men of learning, and richer Souls than ordinary been invited and gladly welcomed into other Cities and Countries, as our King *Alfred* did *Aſſer Menevenſis*, *Edward* the Firſt, *Accurſius*, and our King *James* the Firſt, the generally learned *Cauſabon*, *Peter du Moulin*, and *Gerardus Voſſius*, and believed it to be a great part of their honour and glory to be the Incouragers of learning and vertue? *Tacitus* ſaith, that amongſt the *Romans*, the *Sons of Nobility did dare operam Studiis liberalibus*; The *Emperor Valence* appointed for the publick Library at *Conſtantinople* ſeven *Antiquaries* to look after the Books, four for the *Greek*, and three for the *Latine* who were to have a publick allowance; and muſt we that may ſtand upon our Fore-fathers Shoulders, and may with great eaſe do rather greater than leſſer matters not be aſhamed to be Children of yeſterday, when they that have arrived but unto a ſmall parcel of learning, muſt in ſpight of their Teeth acknowledge that experience is commonly upon earth one of the moſt truſtieſt guides, and neglected the Miſtreſs of Fools when *poſterior dies* ſhould never fail to be *diſcipulus prioris*, and it can portend no leſs than a ſad fatality, and ruin to a Nation to have learning put under no better a Character than that of a *Fop*, or *a grave thinking Coxcomb*, when a *Knave*, though a *Fool*, is believed to be a *Man of Parts and Ingenuity*, and an *honeſt man*, a *ſimple fellow*, or an *Aſs* fit only to be *bang'd* or *rid upon*, and whilſt we mourn and lament with

Dr. Stillingfleets *Origines Britannicæ.*

with the Prophet *Jeremiah*, the forecasted ruin of our *Jerusalem*, and with our long ago *Gildas* the *Excidium Britanniæ* *should cease to pour contempt upon our Kings and Princes, and not cause them to wander in the Wilderness where there is no way*, but offer up our daily Prayers unto God to send help to our *Jacob* in all his many difficulties.

THE

Elenchus Capitum,

OR, THE

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That Parliaments *or Great Councels* de quibusdam arduis *concerning the defence of the Kingdom and Church of* England, *neither were or can be fixed to be once in every year or oftner, they being always understood and believed to be by the Laws, and Ancient, and reasonable Customs of* England ad libitum Regis, *who by our Laws, Right Reason, and all our Records and Annals, is and should be the only* Watchman of our Israel, *and the only Judge of the necessity, times and occasion of Summoning Parliaments.* *p.* 650.

§. 33.

That all or any of the Members of the House of Commons in Parliament are not properly, or by their original constitution intended, or otherwise entituled, or properly, truly, justly, lawfully seized, or to be stiled or termed Estates; *neither are to be so understood or believed to be; and being to be no otherwise than subject to a Temporary* Election, *and by the Authority of their Kings Writs paid their Wages and Charges, by those that sent and elected them, can have no Just or Legal Right thereunto.* *p.* 656

§. 34.

A Series or accompt of the many Seditions, Rebellions and Discords that have successively happened since the beginning of the Raign of King Henry 2. *to our succeeding Kings and Princes until this present Age wherein we now live, by mistaken and never to be warranted principles.* *p.* 717.

A Vindication of the Antient and Preſent Eſtabliſh'd *Government* of the Kingdom of ENGLAND under our *Kings* and *Monarchs* appointed by GOD, from the *Opinion* and *Claim* of thoſe that without any *Warrant* or ground of *Law*, or *Right Reaſon*, the *Laws of God* and *Man*, *Nature* and *Nations*, and the *Records* thereof, would have it to be Originally deriv'd from the *People*, *Co-ordinate* with the *Houſes of Peers* and *Commons* in *Parliament*, or by their Election.

SECT. I.

That our KINGS *of* ENGLAND *in their voluntary Summoning to their Great* Councels *and* PARLIAMENTS *ſome of the more Wiſe, Noble and better part of their Subjects, to give their Advice and Conſent in Matters touching the* Publick Good, *and* Extraordinary Concernment, *did not thereby Create, Or by any Aſſent, Expreſs or Tacite, give unto Them an* Authority, Co-ordination, Equality *or* Share *in the* Legiſlative Power, *or were Elected by Them.*

THE Laws of GOD, Nature and Nations, our Laws of *England*, and the Records thereof, (no Strangers at all unto them, but much in League and Friendſhip with them) did never deny our Kings and Princes to make uſe of the Councels and Advice of ſuch of their Subjects, as were fit and able to give it.

Nor did any of our Kings, by ſuch applications unto their Subjects for their advice and councels, either in general, or particular, common, publick, or private Councels, or any of their Laws, Grants, Charters or Cuſtoms, ever allow them any co-ordinate or equal Authority with Them, or over any of their Actions, in the giving of their Approbation, Advice, or Conſent; Or otherwiſe, if we may believe (as we ought) thoſe Records and Accounts which the World, and its aged Companion, TIME, have from their Infancies left, and recommended unto us: no ſuch Liberties, Cuſtoms, or Priviledges at all ever appearing to have been granted, or of right

appertaining unto them, by any Warrant, Foundation, Law, Act of Parliament, Reaſon, Preſcription or Cuſtom.

[a] Dr. *Duck* De Authoritate Juris Civilis *Romanorum* Lib. 2. *Spelman.* Conal 35. c. 8. Sect. 14. & 16. Chronicon Jo. *Brompton* 956. *Selden* Differt. ad *Fletam*, c. 4. ſect. 4.

In the time of our Anceſtors the *Britains*, [a] *Qui Legibus* Romanis, (not of the Senate, but the Emperours) Cæſareis, *ſeu imperialibus, paruerunt quamdiu ſub Imperio* Romano; which Mr. *Selden* hath aſſerted to have continued 360 years, or thereabouts, from the time of *Claudius* the Emperour, to that of *Honorius*; and that *Severus* the Emperour kept his Court for ſeveral years at *York*, where *Papinian*, that great and famous Lawyer, ſate *Prætor*, or Lord Chief-Juſtice, under him.

[b] Sir J. *Spelman* de vita *Ælfredi* Regis 8. & R. Ep. *Chalcedon.* *Mich. Smith* appendix 190. & doctiſſimæ Annot. in lib. ejuſdem *John Spelman* 6.

Which could not but introduce much of their Laws and Uſages amongſt us, and the near ſucceeding Ages were ſo unwilling to part with them, as they would never after be altogether Strangers unto them; [b] For King *Æthelulph* travelled with his Son *Ælfred* to *Rome*, and *Ælfred*, whilſt he was there, and likewiſe after his return, and being King, *Librorum omnium notitiam habebat*, ſaith *William* of *Malmſbury*; and was very learned, as *Aſſer Menevenſis*, who was his Contemporary, and privy to moſt of his Actions, and *Hoveden*, and *Ingulſus*, have recorded it to Poſterity; *Plurimam partem* Romanæ *Bibliothecæ* Anglorum *auribus dedit*. And *Offa* King of the *Mercians* had in the year of Chriſt 790. before the time of *Æthelulph*, founded, erected and maintained in *Rome* a *Schola Saxonica*, which could not be either conſtituted or continued, without ſome Commerce with the *Latian* Language and Laws: the one being likely to be an effectual means to convey the other, and by a conſtant intercourſe continue the courſe and knowledge of ſome part of theſe Laws and Cuſtoms in *England*.

Or in any of thoſe Laws which *Dunwallo Molmucius, cujus Leges* Molmucianæ *dicebantur*, ordained.

Or in thoſe which *Mercia Regina*, Britonum *Uxor* Gurtheli *à qua Provincia Merciorum*, containing *Glouceſterſhire* and ſeven other Counties, *putatur denominata edit*, as an authentique Hiſtorian ſaith, *diſcretione & juſtitia plenas quæ Lex mercia dicebatur*.

[c] Chronicon J. *Brompten* 788.

Of King *Ethelbert*, [c] *Circa annum ſalutis* 588, or 613. *qui ſub Heptarchia* Saxonum, (as venerable *Bede* relates it) *decreta judiciorum inter ſubditos ſuos juxta exempla* Romanorum, *Conſilio ſapientum conſtituit, & decreta judiciorum ſcribi fecit genti ſuæ.*

[d] Dr. *Duck* lib. 2. c. 8. ſect. 14. & 16.

Et ſub Saxonibus, & Danis, [d] *quamvis pauciora Legum* Romanorum *veſtigia reperiamus.* The learned Dr. *Duck*, ſeconded by Dr. *Langham*, *in obſervationibus, de antiquitatibus & legibus* Romanorum *in* Britannia *exercitatiſſimus*, have not indiligently noted, *conſtabit tamen Reges eorum qui reliquis pietate, virtute, & gloriæ cupiditate præcelluerunt in judiciis, & jure dicundo inter ſubditos ſuos ad exempla* Romanorum *ſæpius ſe compoſuiſſe.* In

In the Laws of King [e] *Ina*, who, about the year 712 after the Redemption of Mankind, *ſueſu & inſtituto* Cenradi *Patris ſui* Heddæ & Erkenwaldi *Epiſcoporum ſuorum*, *omnium Senatorum ſuorum, & natu majorum & ſapientum populi ſui in magna ſervorum Dei frequentia*: commanded, *ut juſta judicia per omnem ditionem ſuam fundita ſtabilitaque ſint, atque ut nulli liceat in poſterum Senatori* [f] *ſive alteri cuivis in ditione ſua degenti ſua antiquare judicia & inſtitutiones ſive Leges genti ſuæ condidit ſolempnes.*

[e] LL. *Inæ* Reg. in legib. *Saxon* per *Ab. Wheloc & W. Lambard*, Latin. reddit.

[f] Chronic. *Joh. Brompton*, 700.

Of King *Alured*, [g] who about the year 871. *prudentiſſimorum è ſuis conſilio*, declaring that many of the Laws of his Anceſtors, *quæ ſibi minus commoda videbantur ex conſulto ſapientum partim antiquanda partim innovanda curavit, & quæcunque in actis* Inæ *gentilis ſui* Offæ Merciorum, *Regis vel* Ethelbert (*qui primus* Anglorum *ſacrotinctus eſt Baptiſmato*) *obſervatu digna deprehenſus fuit, ea collegit omnia, reliqua plane omiſit, atq; in iſtis diſcernendis prudentiſſimorum è ſuis conſilio uſus atq; iis omnibus placuit editi eorum obſervationes.*

[g] LL. *Alluredi* Regis.

Or in the League made betwixt King *Alured* and *Guthrun* the *Dane*, or afterwards betwixt King *Edward* and *Guthrum*, *à ſapientibus recitata ſepius atq; ad commodum & Regni utilitatem aucta & amplificata.*

Or in or by any of the Books, if they were extant, and now to be ſeen, ſaid to have been collected and written by that great King, viz. *Breviarium* [h] *quoddam collectum ex Legibus* Trojanorum, Græcorum, Britannorum, Saxonorum, & Danorum. 2°. *Viſi* Saxonum *Leges*. 3°. *Inſtituta quædam*. 4°. *Contra judices iniquos*. 5°. *Dicta ſapientum*. 6°. *Acta Magiſtratum*. 7°. *Collectiones Chronicorum.*

[h] *Balæus & Jo. Spelm.* de vita *Ælfredi* Regis 166.

Or by the Laws of King *Edward*, [i] about the year 900. where *iis omnibus qui Reip. præſunt etiam atq; etiam mandavit ut omnibus quoad ejus facere poterint æquos ſe præbeant judices, perinde ut in judiciali libro ſcriptum habetur, nec quicquid formident jus commune audacter liberèq; dicant, ac litibus ſingulis dies quibus dijudicentur condictos ſtatuit.*

[i] LL. *Edwardi* Regis.

Of King *Athelſtan*, [k] about the year 924. (the *Heptarchy* being then reduced to its priſtine eſtate of *Monarchy*) *Conſilio* Ulfhelmi, *Archiepiſcopi aliorumque Epiſcoporum, & ſervorum Dei.*

[k] LL. *Æthelſtani* Regis.

Or in his Laws not long before made in a Councel held at *Exeter*, where he was, as they mention, *ſapientibus ſtipatus.*

Of King *Edmond*, [l] made in a Councel at *London*, about the year 940. *tam Eccleſiaſticorum, quam Laicorum, cui interfuerunt* Oda & Wolſtanus *Archipræſul, plurimique alii Epiſcopi.*

[l] LL. *Edmundi* Regis

Or in or by the firſt written Laws of the *Britains*, [m] about the ſame time, in the Reign of their King *Howel Dha*, ſtiled *the Good*, (the *Bards* and *Druids*, [n] men of great veneration, power and eſteem amongſt them, not before recommending to poſterity, or committing to writing any of their Laws, Cuſtoms or Memorials) *qui convocati Epiſcopis & Laicis doctiſſimis Leges antiquas correxit & novas condidit.*

Or in the Laws which King *Eldred* [o] made about the year 948. *in feſto nativitatis beatæ* Mariæ, when *univerſi magnates Regni, per Regium edictum ſummoniti tam Archiepiſcopi totius Regni quam proceres, & optimates* Londoniis *convenerunt ad tractandum de negotiis publicis totius Regni.*

Of King *Edgar*, [p] who about the year 959. (*favente Dei gratia*) not of the People, ſtiling himſelf *totius* Angliæ Βασιλεὺς *& Imperator, frequenti lenatu propoſuit leges populo ſervandas.*

Of K. *Ethelred*, [q] about the year 980. made *ſapientum conſilio.*

Or in the *Senatur conſultum*, Agreement, or League, made between him and the *monticuli Walliæ*, or men of the mountainous parts of *Wales*, *Angliæ ſapientibus, & Walliæ conſiliariis.*

Of or by the Laws of King *Canutus*, [r] conſtituted about the year 1018. *ex ſapientum conſilio.*

Of King *Edward* the [ſ] *Confeſſor*, who reigning about the year 1042. and ſtiling himſelf *Monarcha & Vicarius ſummi Regis*, collected out of the *Mulmucian*, *Mercian*, *Saxon*, and *Daniſh* Laws, and other reaſonable Cuſtoms uſed until his time, ordained Laws, *concilio Baronum* Angliæ, *& Leges* 68 *annis ſopitas excitavit, excitatas reparvit, reparatas decoravit, deboratas confirmavit, confirmatæ verò vocantur Leges Regis* Edwardi, [t] *non quod ipſe primo ad inveniſſe eas, ſed cum prætermiſſæ fuiſſent, & oblivioni penitus deditæ à diebus avi ſui* Edgari *qui* 17 *annis regnavit, ipſe* Edwardus, *quia juſta erant & honeſta à profunda abyſſo extraxit, eas revocavit, & ut ſuas obſervandas contradidit.*

And were afterwards by *William* [u] the *Conquerour*, upon the tears and interceſſion of the *Engliſh*, *conſilio habito & præcatu Baronum per univerſos* Angliæ *conſulatus nobiles & ſapientes & ſuâ lege eruditos*, upon the Oaths of twelve men in every County, granted and confirmed unto them.

Of the Laws which he made, [x] *Univerſo populo* Angliæ *poſt ſubactam terram*, (a time when new Laws are uſually made or given) and giving much of that Conquered Land *Commilitonibus ſuis*, being for a great part the ſame Laws which King *Edward* the *Confeſſor* had before cauſed to be obſerved.

Amongſt which Laws, [y] ſaid to have been the Laws of *William* the *Conquerour*, there remains one in theſe words, viz. *Statuimus*

m Dr. *Duck* de authorit. Juris civilis *Rom.* li. 2. c 8. ſ. & 16.
n *Sammes* Brit. Antiq. illuſtr. 100, 101, 102, 103.
o *Jo. Spelman* in vita *Ælfredi*, 124, ex *Ingulfo*
p LL *Edgari* Regis *Cook* in Præfat 4. relat.
q LL *Ethelredi* Regis.
r LL *Canuti* R
ſ LL *Edwardi* Reg. Confeſſ.
t Tit. lex *Noricorum* & *Danor.* in *Britannia.*
u Chron. *Lechfeldenſe.*
x LL *Guilielmi* Regis Conqu.
Matt. Paris
y Tit. 95.

tuimus & ſirmiter præcipimus ut omnes liberi homines totius Regni noſtri ſint fratres conjurati ad Monarchiam noſtram, & ad Regnum noſtrum pro viribus ſuis & facultatibus contra inimicos pro poſſe ſuo defendendum & viriliter ſervandum, & pacem, & dignitatem Coronæ noſtræ integrè obſervandam & ad judicium rectum & juſtitiam conſtanter omnibus modis pro poſſe ſuo ſine dolo & ſine dilatione faciendam.

Or in or by his Laws and Charters [z] made and granted, *tam* Francigenis *quam* Anglis *communi Conſilio Archiepiſcoporum, Abbatum, & omnium principum Regni ſui*, for and concerning the ſeparation and dividing the Eccleſiaſtical Laws and Juriſdictions from the Temporal and Common.

[z] Seldeni notæ & ſpicilegium ad eadmerum 167.

Or in or by the [a] *codex Legum*, compiled by King *Henry* I. *ex legibus* Salicis, Ripuariis, Danicis, *& aliarum gentium antiquis.*

[a] Spelman gloſſar. in legib. Reg. *H.* 1.

Or in or by his Charter granted unto the Baronage and People of *England*, ſo much approved, as when *Stephen Langton*, Archbiſhop of *Canterbury*, had produc'd it unto ſome of them that were quarrelling with King *John*, for infringing ſome parts of their Liberties, they did ſwear, That they would live and die in the defence and maintenance thereof.

[b] Mat. Paris 240, 241.

Or in a Councel holden [c] *Anno Domini* 1095. in the *8th.* year of the Reign of King *William Rufus* at *Pedred*, *coram Rege & Archiepiſcopo* Dorobernenſi *atq; Primatibus totius Regni judicantibus ubi terminata fuit controverſia inter* Thomam *Archiepiſcopum* Eboracenſem, *&* Ulſtanum *Epiſcopum* Wigornenſem.

[c] Mar. Paris 21.

Or the Charter of King *Stephen*, who granted *omnibus Baronibus & hominibus ſuis de* Anglia *omnes libertates & bonas leges quas* Henricus *Rex* Angliæ *avunculus ſuus eis dedit & conceſſit, & omnes bonas Leges, & bonas conſuetudines eis conceſſit, quas habuerunt tempore Regis* Edwardi.

Or in the agreement made afterwards between him and *Maud* the Empreſs and her Son, touching the ſucceſſion of the Crown of *England.*

Or in any of thoſe which King [d] *Henry* II. granted, reſtored, and confirmed, *Deo & ſanctæ Eccleſiæ, & omnibus Comitibus Baronibus, & omnibus hominibus ſuis omnes conſuetudines quas Rex* Henricus *avus ſuus eis dedit & conceſſit adjecta ſanctione, ut libere, quiete, & plenario tenerentur.*

[d] Spelman gloſſar. in diatriba de *Magna Charta.*

Or in the Letter or Epiſtle [e] which he wrote unto *Thomas Becket*, Archbiſhop of *Canterbury*; which, probably, if it were extant, would not contradict the Rules and Laws of his Government.

[e] Balæus de ſcriptoribus *Anglix* 93.

Or in the great Councel of *Clarendon*, holden by the ſame King,

King, where a recognition of many of the ancient Laws and Cuſtoms of the Nation, *concurrentibus Epiſcopis & Proceribus congregato clero &* [f] *populo tunc præcepit Rex univerſis Comitibus, & Baronibus Regni.*

[f] *Dugdale's Origines Juridiciales* 17.

Or when he held a great Councel at *Northampton*, [g] *coram Epiſcopis, Comitibus, & Baronibus terræ Aſſiſam fecit, & eam teneri præcepit, ſcilicet quod Regnum ſuum diviſit in ſex partes perquarum ſingulas tres Juſticias conſtituit.*

[g] Chronicon *Jo. Bromton* 62.

Or that of King [h] *Richard* I. holden at *London, congregatis Epiſcopis, Comitibus, & Baronibus Regni ſui.*

[h] *Spelman's gloſſor.*

Or by King *John's* permitting the Speech or Oration which *Hubert Walter* Archbiſhop of *Canterbury* made unto him at his Coronation, after the Death of King *Richard* I. at *London, in præſentia Archiepiſcoporum, Epiſcoporum, Comitum, & Baronum, & aliorum omnium qui ejus Coronationi intereſſe debuerant, ubi ſtans in medio omnium, dixit, audite univerſi, noverit diſcretio veſtra quod nullus prævia ratione alii ſuccedere habet Regnum niſi ab univerſitate regni unanimitur invocata ſpiritus electus,* [i] *& ſecundum morum ſuorum eminentiam præ-electus ad exemplum & ſimilitudinem* Saul *primi Regis in uncti quem præpoſuit Dominus Populo ſuo non Regis filium, nec de Regali ſtirpe procreatum, ſimiliter poſt eum* David Jeſſæ *filium hunc quia ſtrenuum & aptum dignitati Regiæ, illum quæ ſanctum & humilem, ut ſic qui evectus in Regno ſupereminet ſtrenuitate omnibus præſit in poteſtate & regimine verum ſi quis ex ſtirpe Regis defuncti aliis præpolleret, pronius & promptius in electionem ejus eſt conſentiendum, hæc idcirco diximus pro inclyto Conite qui præſens eſt fratre illuſtriſsimi Regis noſtri* Richardi *jam defuncti, qui hærede caruit ab eo egrediente, qui providus & ſtrenuus & manifeſte Nobilis, quem nos invocatâ ſpiritus ſancti gratiâ, rationi tam meritorum, quam ſanguinis Regii ananimiter elegimus univerſi.*

[i] *Mat. Paris* 197.

Whereupon, ſaith *Daniel*, [k] (agreeing therein with *Matthew Paris*) the Archbiſhop being after, by ſome of his Friends, queſtioned for ſo doing: confeſſed, that he fore-ſaw whatſoever blood and miſchief it ſhould coſt, (his Title by Succeſſion, in the life of his Nephew *Arthur*, his elder Brother *Geffry's* Son, being at that time not able to carry it) he would endeavour to obtain the Crown; and therefore, the ſafer way to prevent confuſion, was, that the Land ſhould rather make him King than he make himſelf, and that the Election would be ſome tie upon him.

[k] Daniel 127.

Or in or by the Books (if extant) which that King is ſaid to have wrote, entituled *Leges pro Republicâ.* 2*d. Statuta Regalia* 3*d.* in the Epiſtle which he wrote, *Ad* Innocentium *Papam,*

[l] Balæus de ſcriptoribus *Anglicis.* 102.

Papam, contra Stephanum Langton, *Archiepiſcopum* Cantuarienſem. 4*th. Ad* Stephanum Cantuarienſem *Epiſcopum* 5*th. Ad* Innocentium *Papam, contra Barones.* 6*th. Ad* Londinenſes *pro Prætor.* 7*th. Super Charta Obligatoria.*

Which (if the devouring teeth of Time, or corruptions of their Originals, have not met with them) might, if peruſed, be believed to make no oppoſition to that which ſhould be in a well-ordered Regal Government.

Or in or by the Charter *at Running Mead*, called *Magna Charta, & Charta de Foreſtæ*, wreſted and enforced from him by a mighty Army of too many of the Barons of *England*, with their innumerable adherents, upon [m] their Oaths ſolemnly taken upon the Altars, never to deſiſt, until they had obtained a grant of their Laws and Liberties, which they pretended to have been violated; which, ſaith *Daniel* the Hiſtorian, might be wiſhed to have been gained by thoſe unruly Barons in a better manner.

[m] *Sam. Daniel* in the Life of King *John.*

Or by any of our Laws, or any of the Charters or Liberties granted by any of our Kings or Princes before or after.

SECT. II.

Of the Indignities, Troubles and Neceſſities which were put upon King JOHN, *in the enforcing of his Charters, by the* Pope, *and his* (*then*) Domineering Clergy *of* England, *joyned with the Diſobedience and Rebellion of ſome of the* Barons, *encouraged and aſſiſted by them.*

THat unfortunate Prince, ſo ill uſed by *Hubert Walter*, Archbiſhop of *Canterbury*, in the beginning of his Reign, and as bad by *Philip* King of *France*, who had given the Honour of Knighthood unto *Arthur* the Son of King *John*'s elder Brother, and taken his Homage for *Anjou, Poicteau, Touraine, Maine*, and the Dutchy of *Normandy*, with an endeavour to make it the moſt advantageous for himſelf, in regard that King *John* had neglected to do his Homage for thoſe Provinces, being Members of the Crown of *France*.

And in the third year of his Reign [n] impoſing 3 *s.* upon every Plough-land, for diſcharge of a Dowry of 30000 Marks to be given in marriage with his Niece *Blanch*, the collecting whereof the Archbiſhop of *York* oppoſed in his Province; for which, and refuſing to come upon ſummons to his Treaty in *France*, ſeizing his Temporalities, the Archbiſhop Interdicted

[n] *Daniel* 129.

the

the whole Province of *York*, and Excommunicated the Sheriff; Into which County the King, with his Queen *Iſabel*, afterwards making their Progreſs, in their Journey towards *Scotland*, and exacting great Fines of Offenders in his Foreſts, the Archbiſhop his Brother refuſed him Wine, and the Honour of the Bells at *Beverly*. A reconciliation was notwithſtanding made betwixt them, by the mediation of four Biſhops, and as many Barons, with a great ſum of money, and a promiſe to reform exceſſes on both parts: When the King, upon *Eaſter* after his return from the North, was again Crowned at *Canterbury*, and with him his Queen, by the Archbiſhop *Hubert*; and there the Earls and Barons of *England* were ſummoned to be ready with Horſe and Armour, to paſs the Seas with him preſently after *Whitſontide*; but they holding a Conference together at *Leiceſter*, by a general conſent, ſent him word, that unleſs he would render them their Rights and Liberties, they would not attend him out of the Kingdom; whereupon he required of them ſecurity, by the delivering up unto him the principal of their Caſtles, and began with *William de Albany*, for his Caſtle of *Bel-voir*, who delivered unto him his Son as a Pledge, but not the Caſtle.

And the King, with the King of *France*, being after ſolicited by the Popes Legate, obtained a Subſidy of the fortieth part of all their Subjects Revenues for one year, by way of Alms, to ſuccour the *Holy-Lands*; for the levying whereof in *England*, *Geffery Fitz-Peter*, Juſticiar in *England*, ſent out his Writs by way of requeſt and perſwaſion, (not as of due, or by co-action) to avoid example.

Howſoever, the King of *France* declared for *Arthur*, to whom he married his youngeſt Daughter, required King *John* to deliver up unto him all his Provinces in *France*, and by a peremptory day ſummon'd him to appear perſonally at *Paris*, to anſwer what ſhould be laid to his charge, and abide the Arreſt of his Court, which he refuſing, was by ſentence adjudged to loſe all which he did hold in *France* of that Crown; who thus beſet with the King of *France* on the one ſide, and his Nephew *Arthur* and the Barons of ° *Anjou* on the other, who laid ſiege to *Mirabel*, defended by *Eleanor* Mother of King *John*, who by her intermedling, turbulent, and unquiet ſpirit, had done him no good: with great expedition relieved it, by defeating the whole Army; carrying away Priſoners Earl *Arthur*, *Hugh le Brun*, all the Barons of *Anjou*, and 200 Knights.

° Daniel 130.

Where-

Whereupon, *Arthur* being ſhortly after murdered in Priſon, and the deed laid to his charge, with the cruel execution of many of his Priſoners, it ſo exaſperated the Nobility of *Britain* and *Poictеau*, as they all took Arms againſt him, and ſummon'd him to anſwer in the Court of Juſtice of the King of *France*; which he denying, was condemned to forfeit the Dutchy of *Normandy*, which his Anceſtors had held by the ſpace of 300 years: and of that, and all his other Provinces in *France*, became wholly diſpoſſeſt.

And with that diſaſtrous ſucceſs returning into *England*, charged the Earls and Barons with the reproach of his loſſes in *France*, and fined them to pay the fourth part of all their Goods, for refuſing their aid, to which the feudal Laws and their tenures had obliged them.

Neither ſpared he the Church or Commonwealth in the like Impoſition: of which *Geffery Fitz-Peter*, Juſticiar of *England*, was Collector for the Laity, and *Hubert* Archbiſhop of *Canterbury* for the Clergy.

Which being not enough to ſupply his occaſions for War in *France*, (where great Eſtates of many of the *Engliſh* Nobility then lay) a Parliament was convoked at *Oxford*, wherein was granted two Marks and a half of every Knights Fee for Military Aid; the Clergy promiſing to do the like on their part.

In *anno* 8°. of his Reign, another Impoſition was laid, of the 13th. part of all the moveables of the Clergy and Laity, which was again oppoſed by the Archbiſhop of *York*, who ſolemnly accurſed the Receivers thereof [p] within his Province, and departed out of the Kingdom. [p] Daniel 131.

Unto which alſo was added a miſerable breach betwixt Legiance and Authority; for *Hubert* Archbiſhop of *Canterbury* being dead, a great controverſy happened betwixt the King and the Pope, upon the Monks of *Canterbury's* (who were ſent about it to *Rome*) election of *Stephen Langton* a Cardinal; who, though an *Engliſh*-man born, had been bred in *France*, and an adhærent to that King; Being thus elected, and conſecrated by the Pope at *Viterbium* in *Italy*, the election of the Biſhop of *Norwich*, whom the King had procured to be elected, being made void, and thoſe Monks and the reſt of the Agents ſent home, with the Popes Letters, exhorting the King benignly to receive *Stephen Langton*; and charging the Monks remaining at *Canterbury*, by virtue of holy Obedience, to obey the Archbiſhop in all Temporal and Spiritual matters: With which the King being greatly diſpleaſed, ſeized upon all which the Monks had, who with their Prior haſted away to *Flanders*.

And writing a ſharp Letter to the Pope concerning the wrong done unto him, in making void the election of *Gray* Biſhop of *Norwich*, and advancing *Stephen Langton*, a man unknown to him; and which was more to his prejudice, without his conſent: gave him to underſtand, that he would ſtand for the liberties of his Crown to the death; conſtantly affirming, that he could not revoke the election of the Biſhop of *Norwich*, and that if he were not righted therein, he would ſtop up his paſſages of his Subjects to *Rome*; and, if neceſſity required, had in his Kingdom of *England*, and other his Dominions, Archbiſhops, Biſhops, and other Prelates, of ſo ſufficient Learning, as they needed not to beg Juſtice and Judgment of Strangers. Unto which as angry a Letter being returned, and two Monks, who were ſtaid at *Dover*, having been ſent from *Rome* to demand his aſſent for the election of *Stephen Langton*, admoniſhed him to endeavour to give him and the Church their Right, and not to caſt himſelf into thoſe difficulties from whence he could not eaſily releaſe himſelf: ſince He in the end muſt overcome, to whom all knees bow in Heaven, Earth, and Hell, whoſe Vicegerency here below he exerciſed; Neither was it ſafe for him to repugn God and the Church, for which the glorious Martyr and Biſhop *Thomas Becket* ſhed his Bloud: eſpecially ſince his Father and Brother, late Kings of *England*, have in the hands of the Legates of the Apoſtolick See, abjured (which the Records and Memorials of *England* do with great clearneſs contradict) that (as he pleaſed to call it) *Impious Cuſtom.*

[q] Ibidem 132.

And when he was [q] informed how the King had proceeded againſt the Church of *Canterbury* ſent his Mandates to the Biſhops of *Ely*, *London*, and *Worceſter*, to exhort him to reform himſelf; and if they found him contumacious, to interdict the whole Kingdom; and if that would not correct him, would lay a ſevere hand on him.

Which they being ready to obey, with tears beſeeching him that he would call home the Archbiſhop and the Monks of *Canterbury*, and avoid the ſcandal of interdiction: The King in a great Paſſion againſt the Pope and Cardinal, interrupting their Speech, Swore, that if they, or any other, ſhould dare to put the Kingdom under Interdiction, he would preſently ſend all the Clergy of *England* to the Pope, and confiſcate their Goods; and that if any of *Rome* ſhould be found within any part of his Land, he would cauſe their Eyes to be put out, their Noſes cut, (over fierce puniſhments long before uſually and indifferently inflicted upon offending Criminals, Laicks

and

and Clergy, by our *Saxon* and *Norman* Anceſtors, much before, and ſometimes, ſince the time of our *William* the Conquerour) and ſo ſent home, that by thoſe marks they might be known of other Nations; charging the Biſhops moreover, preſently to avoid his preſence, as they would avoid their own danger.

Of which the Pope being certified by thoſe Biſhops, the whole Kingdom was ſhortly after *interdicted*, all Eccleſiaſtical Sacraments and Offices (except Confeſſion, Extream Unction, and Baptiſm of Children) ſeized, and Dead were put into the Earth without Prieſt or Prayer; the King by his Sheriffs and Miniſters commanded all Prelates and their Servants to depart the Kingdom, confiſcated all the Revenues of the Biſhopricks, Abbyes and Priories; many of the Prelates getting into the Monaſteries, as places priviledged.

And not forgetting the Indignities, Hardſhips, Neceſſities, and ill uſages, which had been undutifully put upon him by ſome of his Barons, with the Domineering of the Pope, his Legates and Clergy, whilſt like a Tennis-Ball he had been betwixt them toſt from one hand, Wall and Racket to another, with the great oppreſſions which had been laid upon him by the Clergy of one part, and ſome of his unruly Barons on the other; the diſcords of the former more encouraging the latter by the Popes Excommunication, and Interdicting his Kingdom, did the better to prevent the revolt of his Subjects, which might follow upon his breach with the Church, ſend with a Military power to all the great men of the Kingdom to give Pledges for the aſſurance of their Fidelity; wherein ſome of them gave ſatisfaction by ſending their Sons, Nephews, or neareſt of Kin; amongſt whom *William de Brauſe* a great Baron being ſent unto, his Lady too ſharply giving an anſwer, before her Husband could do it, That the King ſhould have none of her Son to keep, that was ſo ill a keeper of his own Brothers Son *Arthur*; but her Lord reprehending her for it, returned his anſwer, That he was ready if he had offended, to ſatisfy the King without any Pledge, according to the judgment of his Court, and that of his Peers. [r] Daniel 135.

The King diſpleaſed with the *Londoners*, removed his Exchequer to *Northampton*, marched with an Army to make War againſt the King of *Scotland*; and that buſineſs appeaſed, in his return back cauſed all the Incloſures in his Foreſts to be laid open.

The Pope ſeeing that he would not yield, proceeded to an Excommunication of his Perſon, which did put him into a deſperate rage againſt the Clergy, who durſt not execute the Popes Mandate for many days after; which Excommunication of the King was accompanied with that of the Emperour *Otho* his Nephew, and all the Eſtates of *Germany* and the *Roman* Empire were abſolved from their Obedience and Fidelity: But the King having gained great Treaſure from the *Jews* made a Voyage into *Ireland*, where receiving the Homage of many, and reducing much of that Country to his obedience, ordained the ſame to be governed by the Laws and Cuſtoms of *England* (the conteſts whereof were not then fully ſettled) making the Coin and Money thereof to be there Currant, and leaving *John Grey* Biſhop of *Norwich* to be Juſticiar, and there after three Months ſtay returned into *Wales*, which had Rebelled; reduced them to Obedience, taking 28 of the Children of their beſt Families for Pledges: Whence returning in the 13*th.* year of his Reign, he required, and had of every Knight that attended not his Army in that Expedition, two Marks; and at *Northampton* received the Popes Agents, *Pandulphus* and *Durandus*, who were ſent to make a Peace betwixt the Kingdom and Prieſthood, (too many of whom in matters againſt the King were ſeldom at odds) by whoſe exhortation, and the conſideration of the State of the Kingdom, he conſented that the Archbiſhop, and all the exiled Biſhops, and Monks of *Canterbury*, ſhould in peace return to their own; but refuſed to make ſatisfaction for their Goods taken away.

They depart unſatisfied, which made the Pope more Imperious to conſtrain him to do whatſoever he deſired; and to that end Abſolved all his Subjects upon what occaſion ſoever from all their obedience, ſtrictly forbidding them under pain of Excommunication Board, Councel and Conference.

Who preparing to ſuppreſs an Inſurrection of ſome of the *Welſh*, had Intelligence, that if he proceeded therein, he would either be killed or betrayed; whereupon he returned to *London*, required Pledges of the Nobility, and had them; *Euſtace de Veſcy*, and *Robert Fitz-Walter*, being accuſed of the Conſpiracy, fled, the one into *Scotland*, the other into *France*; and the Pope pronouncing the Kings abſolute Depoſition from the Regal Government of the Kingdom, wrote to the King of *France* a perfidious dangerous enemy of King *John*'s; That as he looked to have remiſſion of his Sins, he ſhould take the charge upon him to expel him out of the Kingdom of *England*, and poſſeſs the ſame to Him and his Heirs for ever; and ſent

Letters

Letters to the [s] Princes and great Men of other Nations, That they ſhould aid the King of *France* in the dejection of that contumacious King of *England*, in revenge of the Injuries done to the Univerſal Church: granting like remiſſion of their Sins, as if they undertook the *Holy War*. [s] Daniel 137.

The King of *France* thereupon making great preparations againſt him, and with that Commiſſion the Archbiſhop of *Canterbury*, and the other exiled Biſhops, with *Pandulphus* the Popes Legate, being ſent unto him: private inſtructions were given by the Pope to *Pandulphus*, his juggling Legate, at his returning into *England* out of the King of *France*'s great Army prepared againſt him, that if, upon the Preparation and Forces gathered by the King of *France* for his dejection, he could work the King of *England* to ſuch conditions as he ſhould propound, Abſolution and Reſtauration ſhould be granted unto him; Who, thus diſtreſſed, [t] not only granted reſtitution and ſatisfaction of whatever had been taken from the Archbiſhop, and Monks of *Canterbury*, and the Biſhops of *London*, *Bathe*, and *Lincoln*, (who were fled into *France* to the Archbiſhop) but alſo laid down his *Crown*, *Scepter*, *Sword*, and *Ring*, the Enſigns of his Regality, at the feet of *Pandulphus*, as a Livery and Seizin of the Kingdom of *England* to the Pope, and ſubmitted himſelf to the judgment and mercy of the Church; which being, two days after, or, as ſome have written, ſix, reſtored unto him, upon an agreement made at the receiving thereof upon his Oath, [u] *Non ſine dolore*, (ſaith *Matthew Paris*) *tactis ſacroſanctis Evangeliis, in præſentia* Pandulphi, *ſe judicio ſanctæ Eccleſiæ pariturum, & ſexdecim cum eo Comites & Barones ex potentioribus Regni in animam ipſius Regis juraverunt: Quod ſi fortè facti pæniteret, ipſi eum pro poſſibilitate compellerent*; And thereupon, *convenerunt decimo tertio die* Maii, *apud* Doveriam, (*viz.*) *die* Lunæ, *proximo ante Aſcenſionem Domini Rex, &* Pandulphus, *cum Comitibus, Baronibus, & turba multa nimis* (no Houſe of Commons certainly) *ubi in pacis formam unanimiter conſenſerunt*; And in the King's Name, and under his Seal, it was declared by the Title of *Johannes Dei Gratiâ*, (not of the Pope, or People;) and four of the Barons, (*viz.*) *William* Earl of *Salisbury*, his Brother, *Reginald* Earl of *Boloigne*, *William* Earl of *Warren*, and *William de Ferrariis*, *juraverant in animam ſuam*, (i. e. *Regis*) That they ſhould, *bonâ fide*, in every thing obſerve that Peace and Agreement. [t] Daniel 138. [u] Matt. Paris 134. 235.

And he did likewiſe ſolemnly and abſolutely ſwear, *ſtare mandato Domini Papæ*, to ſtand to the will and command of the Pope, and his Legate or Legates aforeſaid, in all things; for not

not doing whereof, he was excommunicated by him; and that he ſhould not moleſt *Stephen* Archbiſhop of *Canterbury*, *William* Biſhop of *London*, *Euſtace* Biſhop of *Ely*, *Giles* Biſhop of *Hereford*, *Joſceline* Biſhop of *Bath*, *Hubert* Biſhop of *Lincoln*, the Prior and Monks of *Canterbury*, *Robert Fitz-Walter*, (whoſe Caſtle of *Baynard*, in or near *London*, the King had before ſeized, with all his other Lands and Eſtate, proclaiming him a Traytor) and *Euſtace de Veſcy*, with all other Clarks and Laicks, which had adhæred unto them, but continne in a firm peace and good accord with them; and ſhould publickly take his Oath before the ſaid Legate or his Delegate, that he ſhould not hurt, or cauſe them to be moleſted in their Perſons, Lands, Goods, or Eſtates; but ſhould receive them into his grace and favour, and pardon all their Offences; not hinder the ſaid Archbiſhops and Biſhops in their juriſdictions and execution of their Office, but they might fully execute their Authority as they ought; and ſhould grant to the Pope, Archbiſhops, and Biſhops, his Letters Patents thereof, upon Oaths to be taken by the Biſhops, Earls, and Barons, and their Letters Patents given, that they would firmly and truly hold and keep the ſaid Peace and Agreement; and if he by himſelf, or others, ſhould infringe it; they in the behalf of the Church, ſhould oppoſe the Violators of the ſaid Peace and Agrement; and he ſhould loſe the benefit of the Cuſtody of their Churches, in the vacancy thereof: and if he could not perſwade others to keep the laſt part of the Oath, that is to ſay, by himſelf, or others ſhould contradict or go againſt it, they ſhould put in execution the power of the Church, and Apoſtolick Command; and did by his Letters Patents, further oblige himſelf to quit and renounce all his Rights and Patronage, which he had in any of the Churches of *England*; and the ſaid Letters Patents, ſhould be tranſmitted and delivered to the ſaid Archbiſhop and Biſhops, before their coming into *England*; the ſaid Archbiſhop and Biſhops, with a *Salvo honore Dei & Eccleſiæ*, giving caution by their Oaths, and Letters Patents that, *neither they, nor any on their behalf, ſhould attempt or do any thing againſt his Perſon or Crown, whilſt he obſerved and ſecured unto them the Peace and Agreement as aforeſaid; And as to what was taken from them, ſhould make unto them full Reſtitution, with Damages for all that had been done as well to Clerks as Laicks, intermedling in thoſe Affairs, not only as to their Goods and Eſtates, but all Liberties which ſhould be preſerved unto them, and to the Archbiſhop and Biſhop of* Lincoln, *from the time of their Conſecrations, and to all others from the time of the aforeſaid Diſcords; nor ſhould there*

be

be any hindrance to the living or dead, by any of his grants or promiſes before made; neither ſhould he retain any thing by way of Service due unto him, but only the Services which ſhould hereafter be due unto him; all Clerks and Laicks, impriſoned upon that occaſion, ſhould be reſtored to Liberty: And the King ſhould preſently after Abſolution given to him, by him that ſhould do it, cauſe to be delivered to the ſaid Archbiſhop, Biſhops, and Monks of Canterbury, 8000 l. Sterling, *in part of Reſtitution of what had been taken from them; and pay their Debts and Charges, in returning to* England, *that is,* unto *Stephen* Archbiſhop of *Canterbury,* 2500 l. *William* Biſhop of *London,* 750 *l. Euſtace* Biſhop of *Ely* as much, *Joſceline* Biſhop of *Bath,* and *Hubert* Biſhop of *Lincoln,* the like ſeveral Sums of Money; and to the Prior and Monks of *Canterbury,* 1000 l. *That as ſoon as the Peace ſhould be allowed, and accepted by them; he ſhould reſtore unto them all the Moveables which he had taken from them, publickly revoke the Interdict or Outlawry ſo called, made and pronounced againſt Eccleſiaſtical Perſons, and proteſt that it did not at all belong unto him ſo to do; And that therefore he ſhould not do it, but revoke the Outlawing of any of the Laity that had taken their part, and remit all that he had received from any Eccleſiaſtical man:* præter Regni conſuetudinem & Eccleſiæ libertatem; *and that if any queſtions ſhould ariſe concerning the Damages done, it ſhould be determined upon proofs by the Legate or Delegate of the Pope: All which being done, the Popes Sentence and Interdict ſhould be taken off and diſcharged; And if any doubts ſhould ariſe touching any other parts of the Articles of Agreement, and any which were material, or ſubſtential, ſhould happen, that could not be determined by the Legate or Delegates of the Pope; by the Peoples conſent, they ſhould be referred to the Popes Arbitration; and that whatſoever he ſhould Decree, might be obſerved. Dated* 13 die Maii apud Doveram.

Rebus ſic expeditis, and the matter ſo ended and agreed upon; *convenerunt iterum Rex* [x] Anglorum & Pandulphus *cum' proceribus Regni apud domum militum Templi juxta* Doveram *decimo quinto die* Maii *in vigilia Dominica Aſcenſionis, ubi idem Rex juxta quod* Romæ *fuerat ſententiarum reſignavit Coronam ſuam cum Regiis* Angliæ & Hiberniæ *in manu Domini Papæ cujus vices tum gerebat* Pandulphus *memortus factâ autem reſignatione dedit Papæ et ejus Succeſſoribus Regna prædicta quæ* & Charta *confirmavit,* in theſe words, viz.

[x] *Mat Paris* 236, 237.

Johannes *Dei gratiâ Rex* Angliæ, &c. *omnibus Chriſti fidelibus hanc Chartam inſpecturis, ſalutem in Domino; Univerſitate veſtræ per hanc Chartam ſigillo noſtro munitam, volumus eſſe notum, quòd cùm Deum & Matrem noſtram ſanctam Eccleſiam offenderimus in*

multis

multis, & perindè divinâ miſericordiâ plurimùm indigeamus, nec quid dignè offerre poſſimus pro ſatisfactione Deo, & Eccleſiæ, debita facienda niſi noſmet ipſos humiliemus & Regna noſtra; volentes nos ipſos humiliare, pro illo qui ſe pro nobis humiliavit uſq; ad mortem, gratiâ ſancti ſpiritûs inſpirante, non vi interdicti, nec timore coacti, ſed noſtrâ bonâ ſpontaneâque voluntate, ac communi conſilio Baronum noſtrorum conferimus, & liberè concedimus Deo, & ſanctis Apoſtolis ejus Petro *&* Paulo, *&* ſanctæ Romanæ *Eccleſiæ Matronæ noſtræ; ac Domino Papæ* Innocentio, *ejuſq; Catholicis ſucceſſoribus, totum Regnum* Angliæ, *& totum Regnum* Hiberniæ, *cum omni jure & pertinentiis ſuis, pro remiſſione omnium peccatorum noſtrorum, & totius generis noſtri, tàm pro vivis quàm pro defunctis, & amodò illa ab eo & Eccleſia* Romana, *tanquam ſecundarius recipientes & tenentes, in præſentiâ prudentis viri* Pandulphi, *Domini Papæ Subdiaconi & familiaris. Exindè prædicto Domino Papæ* Innocentio, *ejuſq; Catholicis Succeſſoribus, & Eccleſiæ* Romanæ, *ſecundum ſubſcriptam formam fecimus & juravimus, & homagium ligium in præſentiâ* Pandulphi: *Si coram Domino Papa eſſe poterimus, eidem faciemus: Succeſſores noſtros, & Hæredes de Uxore noſtrâ in perpetuum obligantes, ut ſimili modo ſummo Pontifici qui pro tempore fuerit, & Eccleſiæ* Romanæ; *ſine contradictione debeant fidelitatem præſtare, & homagium recognoſcere. Ad indicium autem hujus noſtræ perpetuæ obligationis & conceſſionis, volumus & ſtabilimus, ut de propriis & ſpecialibus redditibus noſtris prædictorum Regnorum, pro omni ſervito & conſuetudine, quæ pro ipſis facere debemus ſalvis por omnia denariis beati* Petri, *Eccleſia* Romana, *mille marcas* Eſterlingorum *percipiat annuatim; in Feſto ſcilicet Sancti* Michaelis *quingentas marcas, & in* Paſcha *quingentas; ſeptingentas ſcilicet pro Regno* Angliæ, *& trecentas pro Regno* Hiberniæ.

Salvis Nobis & Heredibus Noſtris, Juſtitiis, Libertatibus, & Regalibus Noſtris. Que omnia ſicut ſuperſcripta ſunt, rata eſſe volentes atq; firma; obligamus Nos & Succeſſores Noſtros, contra non venire; & ſi Nos vel aliquis ſucceſſorum Noſtrorum contra hec attentare preſumpſerit, quicunq; ille fuerit, niſi rite commonitus reſipuerit, cadat à jure Regni. Et hec charta obligationis & conceſſionis Noſtre. Teſte meipſo, apud domum militum Templi juxta Doveram, coram H. Dublinenſi Archiepiſcopo, Johanni Norwicenſi Epiſcopo, Galfrido filio Petri, W. Comite Sarisberiæ, Willielmo, Comite Penbroke, R. Comite Bononiæ, W. Comite Warenne, S. Comite Winton, W. Comite Arundel, W. Comite de Ferrariis, W. Briwere, Petro filio Hereberti, Warino filio Geroldi, 15°. die Maii, anno Regni Noſtri quarto decimo.

Charta itaque Regis in ſcriptum, ut dictum eſt, redacta, tradidit eam Rex Pandulpho, Romam *Papæ* Innocentio *deferendam;*

&

& continuò cunctis videntibus, homagium fecit ſubſcriptum. Ego Johannes, *Dei gratia* Rex Angliæ *& Dominus* Hiberniæ, *ab hac hora & in anteà, fidelis ero Deo & beato* Petro *& Eccleſiæ* Romanæ *& Domino meo Papæ Domino* Innocentio, *ejuſq; ſucceſſoribus Catholicè intrantibus, non ero in facto, in dicto, conſenſu vel conſilio, ut vitam perdant vel membra, vel mala captione capiantur, eorum damnum, ſi ſic vero, impediam, & remanere faciam, ſi potero; alioquin eis, quam citus potero, intimabo, vel tali perſonæ dicam, quam eis credam pro certo dicturam. Conſilium quod mihi crediderint, per ſe vel per nuntios ſuos ſeu literas ſuas, ſecretum tenebo; & ad eorum damnum nulli pandam me ſciente. Patrimonium beati* Petri, *& ſpecialiter Regnum* Angliæ, *& Regnum* Hiberniæ *adjutor ero ad tenendum & defendendum, contrà omnes homines pro poſſe meo. Sic meo adjuvet Deus, & hæc ſancta Evangelia.* Amen.

Acta autem ſunt hæc, ut prædictum eſt in vigilia Dominicæ Aſcencionis, præſentibus Epiſcopis, Comitibus & Magnatibus ſupradictis. Pandulphus *autem pecuniam, quam in* Arrham *ſubjectionis* Rex *contulerat, ſub pede ſua conculcavit; Archiepiſcopo dolente & reclamantis.*

After which the Nobility refuſe to aid the King in his wars to aſſiſt the Earl of *Flanders* [y] againſt the King of *France*, until he were abſolved, and had confirmed unto them their Liberties; whereupon the King (much againſt his will) was conſtrain'd to ſubmit to the preſent preſſure and neceſſity, ſent to the Archbiſhop of *Canterbury* and the other Biſhops, who were yet in *France*, promiſing them preſent reſtitution and ſatisfaction, under the Hands and Seals of 24 of his Earls and Barons, undertaking for the performance thereof according to the form of his Charter and Agreement made and granted in that behalf; and the better to prepare them [z] to give him their aſſiſtance, directed the enſuing Letter to meet them in theſe words: *Rex Venerabili in Chriſto Patri, S. Dei gratiâ* Cant' *Archiepiſcopo totius* Angliæ *Primati, & ſanctæ* Romanæ *Eccleſiæ Cardinali, & omnibus ſuffraganeis ſuis Epiſcopis, cum eo exiſtentibus* Johannes *eadem gratiâ* Rex Angliæ, &c. *mandamus vobis quòd cùm veneritis in* Angliam *ſcientes quòd jamdiù vos expectavimus, & adventum veſtrum deſideravimus, unde in occurſum veſtrum mittimus fideles noſtros Dominum* H. Dublin' *Archiepiſcopum,* J. Norwici *Epiſcopum,* W. *Com'* Arundel, Mattheum *filium* Herberti, W. *Archidiaconum* Huntindon, *rogantes quatenùs ad nos venire feſtinetis, ſicut prædicti fideles noſtri vobis dicent T. meipſo apud* Stoaks *Epiſcopi, primo die* Julii.

[y] Daniel 139. & 140.

[z] Rêclaus 15 Johannis part 2. m 8. *dorſo.*

Whereupon *Pandulphus*, with the Archbiſhop and the reſt of the exiled Clergy, (upon his confiſcation of their Eſtates) forth-

[z] Matt. Paris 226, *and* 239. Daniel. 139.

forthwith came over and found him at *Wincheſter*, who [z] went forth to meet them, and on his knees with Tears received them, beſeeching them to have Compaſſion on him, and the Kingdom of *England*; and being thereupon Abſolved with great Penitence, Weeping and Compunction, accompanied with the Tears of the many Beholders; did Swear upon the Evangeliſts *to Love, Defend and Maintain Holy Church and the Miniſters thereof, to the utmoſt of his Power; that he would renew the good Laws of his Predeceſſors, eſpecially thoſe of King* Edward, *abrogating ſuch as were unjuſt; would Judge all his Subjects according to the juſt Judgment of his Court* (which was then, and for many Ages before, compoſed only of the King and his Nobility, Biſhops, and Lords Spiritual, with his great Officers of State, and ſuch Aſſiſtants as he would pleaſe to call unto it) *and that preſently upon* Eaſter *next following he would make plenary ſatisfaction for whatſoever had been taken from the Church.*

Which done, he went to *Portſmouth*, with intention to paſs over into *France*; committing the Government of the Kingdom to the Biſhop of *Wincheſter*, and *Jeffrey Fitz-Peter* Juſticiar, a man of a Generous Spirit, Learned in the Laws, and Skilful in Government; who were alſo to take the Councel of the Archbiſhop of *Canterbury*.

The Souldiers being numerous, and wanting Money to attend him, deſired to be Supplied out of his Exchequer; which he refuſing to do, or wanting it, in a great rage with his private Family, took Shipping, and put forth to the Iſle of *Jerſey*; but ſeeing none of his Nobles and others followed him (according to their Tenures and Homage) was forced, having loſt his opportunity of the Seaſon, to return into *England*, where he gathered an Army, with intention to Chaſtiſe the Lords, who had ſo forſaken him, having for the like Offence ſome years before taken by way of Fine a great ſum of Money: *Quòd noluerunt eum ſequi ad partes tranſmarinas ut hæreditatem amiſſam recuperaret.* But the Archbiſhop of *Canterbury* followed him to *Northampton*, urging him that it was againſt his Oath taken at his Abſolution, to proceed in that manner againſt any man without the Judgment of his Court; to whom the King in great wrath replyed, that he would not defer the buſineſs of the Kingdom for his pleaſure, ſeeing Lay Judgment appertained not to him; and marched to *Nottingham*.

[a] Matt. Paris 212.

The Archbiſhop followed him, and plainly told him, that unleſs he would deſiſt, he would Excommunicate all ſuch as ſhould take Arms againſt any before the releaſing of the Interdiction,

diction, and would not leave him until he had obtained a convenient day for the Lords to come to his Court, which ſhortly after they did.

And a Parliament was aſſembled at St. *Pauls* in *London*, wherein the Archbiſhop of *Canterbury* produced the ſaid Charter of King *Henry* I. whereby he granted the ancient Liberties of the Kingdom of *England*, according to the Laws of King *Edward*, with thoſe emendations which his Father, by the counſel of his Barons, had ratified: upon the reading whereof, *gaudio magno valdè*, ſaith *Matthew Paris*, they greatly rejoyced, and ſwore in the preſence of the Archbiſhop, that for thoſe Liberties, *viſo tempore congruo ſi neceſſe fuerit decertabunt uſq; ad mortem Archiepiſcopus promiſit eis fideliſſimum auxilium ſuum pro poſſe ſuo & ſic confederatione facta inter eos colloquium ſolutum fuit.* [b] Matt. Paris 240. 241. & Daniel 140.

The Pope, advertiſed of thoſe diſturbances, by his *Bull* directed *Baronibus Angliæ*, (but not to thoſe Biſhops diſplaying the Banner of his ſuppoſed Authority, which had encouraged, and animated, and cauſed them to perſiſt therein) ſtiling thoſe *Quæſtiones novitèr ſuſcitatas grave diſpendium parituras*, did prohibit, under the pain of Excommunication, all Conſpiracies and Inſurrections, from the time of the Diſcords *inter Regnum & Sacerdotium*, which had been quieted *Apoſtolica autoritate*, admoniſhed them *Regem placare & reconciliare exhibentes ei ſervitia conſueta*, which They and their Predeceſſors had done unto Him and his Predeceſſors; and if they had any thing to require of him, they ſhould not ask it *inſolenter*, *ſed cum reverentia*, preſerving his Regal Honour and Authority, that ſo they might the more eaſily obtain what they deſired; and aſſured them that he would deſire the King that he ſhould be kind to them, and admit their juſt Petitions. [i] Par. 16 Johannis m. 1. Dorſo.

But the Barons perſiſting in their armed Violence and Rebellion againſt the King, notwithſtanding that weather-beaten Prince had, for ſhelter, taken upon him the Croſs and War for the recovery of the *Holy-Land*, (then ſo called) the Pope in *July* following ſent his *Bull* to the univerſality of the [d] Barons, Biſhops, and Commonalty of *England*; wherein reciting, that the Barons had ſent their Agents unto him, and that he had commanded the Archbiſhops, Biſhops and Archdeacons *ut conſpirationes & conjurationes præſumptas*, from the the time of the diſcords *inter Regnum & Sacerdotium*, that they ſhould *Apoſtolicâ autoritate* forbid them by Excommunication to proceed any farther therein, and enjoyn the Barons to endeavour to pacifie the King, and reconcile themſelves unto him; and if they had [d] *Anno* 16 Johannis *in Alba Turre* London.

any thing to demand of him, it ſhould be done, *conſervando ſibi Regalem Honorem exhibendo ſervitia debita quibus ipſe Rex non debebat abſq; Judicio ſpoliari.*

And that he had commanded the King to be admoniſhed and enjoyned, as he would have remiſſion of his ſins, graciouſly to give them a ſafe conduct, and receive their juſt Petitions, *ita ſi quod fortè non poſſet inter eos concordia provenire in curia ſua per Pares eorum ſecundum Regni conſuetudinem atq; Leges mota deberet diſcordia Barones ipſi ſua non expectata reſponſa,* ſhould not preſume *contra Dominum ſuum arma movere temeritate nefaria,* ſeeing the King had taken upon him the Croſs for the recovery of the *Holy-Land,* ſo as it might ſeem *quod conſpirationem inbierint deteſtandam ut eum taliter de Regno poſſint ejicere & violare,* their homage and fidelity ſworn to the King, *quod quàm crudele ſit, actu & horrendum auditu cum pernitioſi materia ſit & cauſa ſuis temporibus in audita manifeſtè cognoſcit quicunque judicis utitur ratione;* and therefore, as he ought to make peace for the King of *England,* who was his Vaſſal, and ſpecially needed his protection, commanded the Biſhops and their Suffragans, that unleſs the ſaid Barons and their Adherents ſhould within eight days after the receipt of his *Bull,* or Letters, *omni cavillatione poſtpoſitâ,* ſurceaſe their doings, they ſhould excommunicate them *omni appellatione remota,* interdict their Lands, Churches and Eſtates, and every *Sunday* publiſh and declare it, *& nè igitur propter quoſdam perverſos univerſitatis ſinceritas corrumpatur,* commanded and exhorted them *in remiſſionem peccatorum injungentes quatenus præfato Regi adverſus perverſores hujuſmodi,* they ſhould give all fitting aid and favour *ſcientes pro certo quòd ſi Rex ipſe remiſſus eſſet aut tepidus in ea parte nos* (i. e. *Papa*) *Regnum* Angliæ *non pateremur in tantam ignominiam deduci cùm ſciamus per Dei gratiam, & poſſumus talem inſolentiam caſtigare.*

But the Quarrels going on [e] more and more, the King ſent his Procurator or Agent to *Rome,* and the diſcontented Barons theirs, who did urge, ſaith *John Mauclerc,* the King's truſty Agent, in a Letter written from thence unto him, that the *Magnates* Angliæ *ſcilicet Boreales, & ut prædicti Nuntii dicunt Papæ omnes Barones* Angliæ *inſtantèr ſupplicant, quòd cùm ipſe ſit Dominus* Angliæ, he ſhould diligently admoniſh, and, if need ſhould be, compel him to obſerve the ancient Liberties granted by Him and his Anceſtors Charters, and confirmed by his Oath; and did likewiſe alledge, *quòd cùm ille à prædictis Baronibus inde requiſitus fuiſſet in* Epiphaniâ *Domino apud* London *ſpreto proprio juramento non tantum libertates ſuas antiquas & conſuetas eis concedere,* contemptuouſly refuſed, unleſs they would pro-

[e] A. 16 *Johan.* in turre *Lond.*

promiſe *& etiam per Chartas ſuas darent quod nunquam de cætero tales libertates*, from Him *vel Succeſſoribus ſuis exigerent, quòd omnes Barones præter Dominum* Winthon, *& Comitem* Ceſtriæ, *&* Willielmum Brewere *hoc facere renuerent.*

Supplicaverunt autem Domino Papæ quòd ipſe ſuper his eis provideret cùm ſatis conſtet ei quòd ipſi audacter pro libertate Eccleſiæ ad mandatum ſuum, would oppoſe the King, *& quod* he had granted, *an annum redditum Domino Papæ & Eccleſiæ* Romanæ, and exhibited and done, *alios honores, & ei* Romanæ *Eccleſiæ non ſponte nec ex Devotione, imò ex timore & coactione*: who, thus perplexed, aſſayed all he could to pacifie Pope *Innocent* by his Letter written unto him, complaining, that the Barons of *England*, who were devoted unto him before he had [f] ſurrendred and ſubjected his Realm unto him, had ſince, for that very reaſon, as they publickly alledged, (when it mentioned it to have been done *Conſilio Baronum ſuorum*, and many of the principal of them had been witneſſes to that diſhonourable Grant) taken Arms againſt him, as he expreſſed it in theſe words, *cum Comites & Barones* Angliæ, *nobis devoti eſſent antequam nos & noſtram terram Dominio veſtro ſubjicere curaſſemus extunc in nos ſpecialiter ab hoc ſicut publicè dicunt violenter inſurgent*, earneſtly deſired his protection, aid and aſſiſtance, and ſent his Agents unto him, to confirm his Charters granted to Queen *Berengaria*, Widow of King *Richard* I. ([g] not to deliver or grant any new Charter of the Kingdom of *England*, wherein *Samuel Daniel* may be underſtood to have been miſtaken; [h] for Mr. *Pryn* in his late Hiſtorical Collections of that King's Reign, and *Matthew Paris*, [i] do give no ſuch account of it;) whereupon *Nicholas* Biſhop of *Tuſculan* being ſent into *England*, *congregavit conſilium in urbe* Londinenſi *apud Sanctum* Paulum *ubi congregatis Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis ad interdicti negotium ſpectantibus*, Forty Thouſand Marks were agreed to be paid to the Archbiſhops, and Monks of *Canterbury*, and the reſt of the exiled Clergy: and the Biſhops of *Winchester* and *Norwich* Sureties for Thirteen Thouſand Marks of it remaining unpaid. [k] The King being abſolved, the Interdict (which had continued ſix years, three months, and fourteen days, to the great damage and loſs of the Church and Clergy) was diſcharged and [l] taken off. The Barons, notwithſtanding that Clergy-pacification, aſſembled themſelves at *St. Edmundsbury*, where they conſulted of the late produced Charter of King *Henry* I. and ſwore upon the High-Altar, That if the King refuſed to confirm and reſtore unto them their Liberties, they would make war upon him until he had ſatisfied them there-

[f] Ro' pat. 17. *Johannis* in 16. in dorſo 3.

[g] Ro' pat. 17 *Johan.* in 16. in dorſo.

[h] *Pryn*'s Hiſtory of K. *John*, 34, & 35.

[i] *Mat. Paris*, ad annos 14, 15, 16, & 17 *Johan.*

[k] *Mat. Paris* 249.

[l] *Daniel* 140, 141.

therein; agreed, that after *Christmas* they would petition him for the same, and in the mean time would provide themselves of Horse and Arms, to be ready if he should start from his Oath made at his Absolution for the confirmation of those Liberties, and compel him to satisfiee their demands. After which time they came in a Military manner to the King, lying at the *New-Temple*, urgeing their desires with great vehemency: who seeing their inclinations and resolution, answered, he would take consideration thereof until *Easter* following. Howsoever, these Lords continued their resolution, mustered their Forces at *Stamford*, (wherein were said to have been 2000 Knights, besides Esquires, with those that served on foot) and from thence marched towards *Oxford*: From whence the King sending unto them the Archbishop of *Canterbury*, *William Mareschal* Earl of *Pembroke*, to demand of them, *What were those Laws and Liberties which they required?* whereof a Schedule being shewed, and by the Commissioners delivered to the King, he, after the reading thereof, in great indignation asked, *Why the Barons likewise did not demand the Kingdom?* and swore, that he never would grant those Liberties whereby to make himself *a Servant*; Upon which answer returned, those Barons seizing some of his Castles, march'd towards *Northampton*, which they besieged, constituted *Robert Fitz-Walter* their General, (whom they stiled [m] *Marshal of the Army of God and Holy Church*) took the Castle of *Bedford*, whither the *Londoners* sent their private Messengers with offers to joyn with them, and deliver up the City to be guarded by them; unto which they repairing, were joyfully received, and had it delivered unto them, *ubi Baronibus favebans divites, pauperis obloqui*, saith *Matthew Paris*, *metuebant*, from whence (daily encreasing in the number of their Confederates, *& à Civibus accepta securitate*) they sent their Lettess to all the Earls, Barons and Knights which yet adhered to the King, exhorting and threatning them, as they loved Themselves, their Lives and Estates, they should forsake a perjured King, and joyn with them to obtain their Liberties, otherwise they would take them for publick Enemies, turn their Arms against them, destroy their Castles, burn their Houses, and spoil their Lands and Estates: The greatest part whereof, upon those threatnings, did so think it to be their safer way to forsake Him and their Loyalty, as they joyned with them.

[m] Daniel 143.

Matt. Paris 244. & 255.

The King finding himself *fere derelictum ab omnibus*, and but seven Knights *ex omni multitudine Regia* abiding by him *timuit valdè*, lest the Barons *in castra sua impetum facientes illa sine difficultate sibi subjugarent*, especially when they should find nothing

thing to hinder them, ſent *William Mareſcal* Earl of *Pembroke* and others to treat with them (being then at *London*) for a Peace, with an offer to grant the Laws and Liberties demanded; and thereupon *ſtatuerunt Regi diem ad colloquium in pratum inter* Stains *&* Windleſhores, 15°. *die* Junii, where *Rex & Magnates* being met, and treating concerning the Liberties, and a laſting Peace, (there being with the King, beſides *Pandulphus* and *Stephen* Archbiſhop of *Canterbury*, his double-dealing Friends, and ſome few others, in all but Twenty-five) *tandem cum in varia ſorte tractaſſent* the King *vires ſuas Baronum viribus impares intelligens ſine difficultate Leges & Libertates conceſſit, & Charta ſua confirmavit data per manum ſuam in prato, quod vocatur* Running-Mead, *inter* Stains *&* Windleſhores, *decimo quinto die* Junii, *anno Regni ſui decimo ſeptimo.*

Which (as *Matthew Paris*, a Monk of *St. Albans*, living not only at the ſame time, but being *Hiſtoriographer* unto King *Henry* III. his Son, privy to many of his affairs, and wrote in the 57*th.* year of his Reign, hath faithfully related [o] thoſe paſſages and proceedings) was, as to the preamble thereof, (the exact and full tenor thereof being with it truly mentioned in his Book) in theſe words: *Intuitu Dei & pro ſalute animæ meæ & Anteceſſorum omnium, & Hæredum ſuorum ad honorem Dei, exaltationem ſanctæ Eccleſiæ, & emendationem* [p] *Regni ſui per concilium* Stephani *Archiepiſcopi* Cantuarenſis, (who prepared them, and had incited the Pope and Barons againſt him) *& aliorum Epiſcoporum ibi nominat*, Pandulphi *Domini Papæ Subdiaconi & familiaris*, Willielmi Mareſcali *Comitis* Pembrochiæ, Willielmi *Comitis* Sarisberienſis, Willielmi *Comitis* Warrenniæ, &c. *& aliorum fidelium mera & ſpontanea voluntate pro Me & Hæredibus meis Deo & liberis hominibus* [q] *Angliæ habendas & tenendas eis & Hæredibus ſuis de Me & Hæredibus meis*; which our Laws (no other tenure being ſpecified) will interpret to be *in capite.*

[o] Charta Reg. *Johannis* in *Mat. Paris* 254, 255, 256, 257, 258, 259, 260.

[p] *Balæus* de ſcriptoribus *Angliæ*, 102. & *Polydor* vir gil. lib. 15.

[q] *Coke* 1 part Inſtitut. 108, 159.

And more at length, as *Matthew Paris* hath recorded it, with a *ſalvis Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Templariis, Hoſpitalariis, Comitibus, Baronibus, Militibus, & omnibus aliis tàm Eccleſiaſticis perſonis, quàm Secularibus Libertatibus & Liberis conſuetudinibus quas prius habuerant*; which gave them a better ſecurity in their former Liberties than they could claim by the forced and indirect gaining of the latter; and concluding in the percloſe with his *Teſtibus*, &c. hath theſe words ſubjoyned, *Libertates vero de Foreſta, & liberæ conſuetudines quas cum libertatibus præſcriptis in una ſchedula pro ſua capacitate continere nequiverimus in Charta ſubſcripta continentur*, ſaith *Matthew Paris.*

In

In which, not in the modern Language, and ſtile of our Acts of Parliament, but as Charters in the dictates of Regal Authority, as that of *William* the Conquerour to the Citizens of *London*, and that of dividing the Temporal and Spiritual Juriſdictions, and thoſe of King *Henry* I. King *Stephen*, and *Henry* II. and all the Charters of Liberties and Priviledges granted by our Kings before and ſince to Cities, Boroughs, Corporations, and Lords of Manors; as, the Charter of King *Edward* I. to the Citizens of *London* in the *6th.* year of his Reign, and of King *Edward* III. in the *14th.* year of his Reign to all the people of *England*, to be governed by the *Engliſh* Laws, in caſe he ſhould obtain his Right to the Kingdom of *France*, and all our preceding Laws have uſed to be. He granted away many of the ancient Rights of the Crown, made and ordained new Laws, as that (amongſt others) of *Communia placita nan ſequantur Curiam noſtram, ſed teneantur in certo loco;* and that of recovering the King's Debts, *&c.* Enlarged ſome, abrogated others, and gave unto the people greater Liberties and Immunities then the Laws of King *Edward* the *Confeſſor*, and the Charter of King *Henry* I. put altogether, had allowed them; the Original whereof (or the *Magna Charta* of King *Henry* III.) remaining in the Library of the Archbiſhops of *Canterbury* at *Lambeth*, at the time of the Impriſonment of that martyred great *Anti-Papiſt*, *William Laud*, Archbiſhop of that See; and the ranſacking of it preceding his Murder, in the Reign of that Bleſſed Martyr King CHARLES I. by *Hugh Peters*, Mr. *Pryn*, and ſome others, thereunto appointed by their Rebellious Maſters the then miſcalled *Parliament*, was never after found; and by it ſelf in a diſtinct paragraph did follow, as it were, a Bond or Security given by King *John* in theſe words: *Cùm autem pro Deo & ademendationem Regni noſtri, & ad melius ſapiendam diſcordiam inter nos & Barones hæc omnia conceſſimus volentes in integra & firma ſtabilitate gauderi facimus & concedimus ſecurieatem ſubſcriptam,* (*viz.*) That the Barons ſhould elect Twenty-five Barons of the Realm, who ſhould be Conſervators thereof, *& pro totis viribur ſuis obſervare, tenere, & facere obſervari pacem & libertates quas eis conceſſimus*, and correct the King's defaults in Government.

Vide L.L. Edwardi *Confeſſor*, *& cart &* L.L.

Of which number [s] *Gilbert de Clare*, Earl of *Glouceſter* and *Hertford*, was one, with a power, that if the King or his Chief-Juſticiar, ſhould trangreſs in any Articles of the Laws, it ſhould be lawful for any Four of them, after Forty days notice given to Him, or his Chief-Juſticiar, and no amendment, to complain to the reſt, and joyning with Them and the People, to diſtrain and

s Matt. Paris 161. 162.

and compel him, with a *ſalvâ Perſonâ Regis* only, *& Reginæ, & liberorum ſuorum. Et iſti* 25°. *Barones juraverunt in animabus ſuis Rege hoc diſponente quod omni inſtantia his obſequerentur, & Regem cogerent ſi forte reſcipiſci vellet tenere ſequentes,* (and the Earls of *Glouceſter*, *Arundel*, and *Warren*, with Thirty-four other Barons, and great men) *juraverunt* to obey the commands of the Twenty-five Barons, and all that would might ſwear to aſſiſt them and the people, *cùm communia totius terræ* might *gravare eum cum eis*, and to that end thoſe Conſervators ſhould have his Caſtles of *Killingworth*, *Northampton*, *Nottingham*, and *Scarborough*, and the Caſtellanies or Governours ſworn to obey them; and after a general pardon granted to them, and all their adhærents, mutual Oaths ſhould be taken on both ſides, in ſolemn manner, for the inviolable obſerving the Articles, and the King's Letters Patents ſent to all the Sheriffs of the Kingdom, to cauſe all men (of what degree ſoever) within their ſeveral Shires to ſwear to obſerve thoſe Laws and Liberties granted by his Charter, and was compell'd ſo far to ſuffer thoſe Conſervators to proceed in their Conſervatorſhips, as in the ſame year they took their Oaths to perform thoſe their new Offices, the Earls of *Arundel*, *Glouceſter*, and *Warren*, with *Hubert de Burgh*, and many Barons and great men, took their Oaths alſo to obey and aſſiſt them.

But in the mean time *Glouceſter* and *Spencer*, being the chief of the Twenty-four Conſervators, did draw the entire managing of the Kingdom into their own hands, compel the King to ſummon a great Councel at *London*, where the authority of the Twenty-four Conſervators was deliver'd over unto themſelves, and it was ordained, that Three of them at the leaſt ſhould attend at the Court, to diſpoſe of the cuſtody of the Caſtles, and other buſineſs of the Kingdom, with thoſe of the Chancellor, Juſticiar, and Treaſurer, and of all Offices great and ſmall, and bound the King to looſe and renounce to them their legal Obedience, whenſoever he ſhould infringe his Charters; which might, as unto a great part of them, be certainly believed to have been the very ſpawn and breed of thoſe (long-after-reviv'd) high and mighty *Nineteen Propoſitions* which were endeavour'd to have been enforced upon the late Bleſſed Martyr King CHARLES, and of the late deſign'd *Aſſociation* in the Reign of His Son King CHARLES II.

But that hoped pacification being made (ſaith the Hiſtorian) Jealouſies and Diſcontents did again kindle, and break out on both ſides; the one part to keep what they had undutifully gained, and the other to get looſe of what for fear he had too

much yielded unto; the King wanting none to enflame the perturbations, and anguiſh of his mind to tell him, that he was now a King without a Kingdom, a Lord without Dominion, and a Subject of his Subjects, the Diſcords, like a Wound or Sore ill-cur'd, feſter'd again, and broke out.

SECT. III.

Of the ſucceeding Jealouſies, Animoſities, Troubles and Conteſts betwixt King John *and his over-jealous* Barons, *after the granting of his Charters, and his other Tranſactions and Agreements with them at their tumultuous meeting at* Running-Mead, *with the ill uſages which he had before received of them, during all the time of his Reign.*

HE retir'd into the *Iſle of Wight*, whence by Agents ſent to *Rome* he procured a definitive Sentence to condemn and nullifie what was done, and the Pope's Excommunication of the Barons, who kept about the City of *London*, and under colour of Tournments, and other Martial exerciſes, invited as many other as they could to their aſſiſtance, but did not ſeek to ſurprize his Perſon, or intercept his Agents, although they had ſtrength to do it, but only to enjoy thoſe Liberties which they had ſpoiled and diſcredited by gaining them by violence; wherein the fear of the power of an enraged Prince made them the more deſperately careful to defend themſelves, and finiſh their deſigns, whilſt the King tarried three months in the *Iſle of Wight*; whence the Biſhop of *Worceſter*, Chancellor of *England*, Biſhop of *Norwich*, with others, were ſent with his Seal to procure Foreign Forces, and to bring them to *Dover*; whither, after ſome ſmall prizes taken by him, and he returning, his Agents abroad brought him an Army of Foreigners from *Gaſcony*, *Lovaine*, *Poictеau*, and *Brabant*, (many of them being his *French* Subjects, with whoſe help, notwithſtanding the loſs of 40000 Men, Women and Children, who were drowned at Sea as they were bringing unto him by *Hubert de Burgh* from *Calice*. He beſieged and took *Rocheſter* Caſtle, marched over moſt part of the Kingdom, and within half a year got in all the Barons Caſtles even to the borders of *Scotland*, and was Maſter of all *England* except the City of *London*, which he would not adventure upon, in regard of the Barons united Forces which lay near unto it; marched to St. *Albans*, where he proclaimed the Pope's Excommunication of the Barons;

Daniel 145.

rons; who ſeeing Themſelves and their Wives and Children like to be ruined, and depriv'd of their Eſtates, (which were given away to ſtrangers) deſperately fell into another extreme, ſolicited *Lewis* the *French* King's Son to take upon him the Crown of *England*, wherein they promiſed by a free Election to inveſt him, and to ſend Pledges for the performance; which Meſſage being well received, a Parliament was called at *Lyons* by *Philip* the Father of *Lewis*, and the buſineſs reſolved upon, whilſt *Lewis*, beſides the hop'd-for title of Election, (by thoſe *truſty Conſervators of the Peoples Liberties*, for their own particular Intereſt more than the Peoples) ſuppoſed that he had another title from his Wife *Blanch*, Daughter of the Siſter of the proſecuted King.

In whoſe behalf the Pope wrote to the King of *France*, not to invade the King of *England*, but rather to defend him, in regard he was a Vaſſal of the *Roman* Church, and the Kingdom, by reaſon of Dominion, appertaining unto it; whereunto the King of *France* anſwered, (probably by the advice of the contending *Engliſh* Baronage) *That the Kingdom of* England *never was, nor is, nor ever ſhall be, the Patrimony of St.* Peter; *That King* John *was never lawful King thereof; and if he were, he had forfeited it, by the Murder of his Nephew* Arthur, *for which he was condemned in his Court, and could not give it away without the conſent of the Barons, who were bound in an Oath to defend the ſame; and if the Pope ſhould maintain this errour, it would be a pernicious example.*

Wherewith the Pope's Agents [u] departing unſatisfied, *Lewis* ſent his Commiſſioners to *Rome* to declare his Rights, and juſtifie his undertaking; ſets forth from *Callis* with 600 Ships, and 80 other Veſſels, and landed with his Army at *Sandwich*, King *John* being then at *Dover*; who upon notice of his great power, and diſtruſting his Mercenaries, committed the keeping of *Dover* Caſtle to *Hubert de Burgh*, forſook the Field, and with it himſelf, and retired, firſt to *Worceſter*, and after to *Glouceſter*; whereby *Lewis* having ſubdued the whole County of *Kent*, (*Dover* excepted) came to *London*, where he was joyfully received of the Barons, and (upon his Oath taken to reſtore their Laws, and recover their Rights) had Homage and Fealty done unto him.

[u] Daniel 149, 147.

Guallo the Pope's Agent follow'd the King to *Glouceſter*, ſhews him the Pope's care of him, pronounced Excommunication againſt *Lewis*, and all that took part with him; Notwithſtanding which ſmall comforts, in ſo many and great extremeties preſſing hard upon him, moſt of his Mercenaries left

him, and either returned into their own Countreys with ſuch ſpoils as they had gotten, or betook themſelves to the ſervice of their Countrey-men; But he was not yet ſo forſaken, for that he had power enough to infeſt, though not to ſubdue his enemies, and ſome faith was found amongſt many of his Subjects, that well executed their truſts. *Dover* Caſtle, with a ſmall company, held out againſt all the Force which *Lewis* could bring againſt it; *Windſor* Caſtle did the like againſt the Barons; *Nottingham* and *Lincoln* Caſtles made reſolute reſiſtance. The moſt fertil places of the Kingdom, as about *Glouceſter*, the Marches of *Wales*, *Lincolnſhire*, *Cambridgeſhire*, *Norfolk*, *Suffolk*, *Eſſex*, *Kent*, and all about *London*, were the ſtages of the War, and the Ruins of the Kingdom were every where heard and felt; which continuing all that Summer, about the latter-end of *October* then next following, that diſtreſſed King, oppreſſed with as many ſorrows as enemies, and a grief conceived for the loſs of his Carriages, and other neceſſaries of War, ſunk in the Sands paſſing the *Waſhes* betwixt *Lyn* and *Boſton*, fell ſick of a burning Feaver, taken (as ſome writers have recorded it) by a ſurfeit of eating Peaches, and drinking new Ale out of a Cup, with the Venom prick'd out of a Toad put into it, given him by a Monk at *Swinſted* Abbey in *Lincolnſhire*; who, after leave given by the Abbot, and aſſoiled or abſolved from the doing thereof, was content to poyſon himſelf, as he did; and bringing the Cup unto the King, ſitting at meat, ſaid, *Waſſail, for never in all your lyſe drancke yee of ſo goode a Cuppe*; To whom the King ſaid, *drincke Monch*; which he doing, and the King having drunk a great draught, did ſet down the Cup. The Monk retired into the Infirmatory, where his Bowels brake aſſunder; The King finding himſelf ill at eaſe, and his Belly beginning to ſwell, and being told that the Monk was dead, commanded the [x] Table to be taken away, and a Truſs to be provided for him; of which, *vulgata fama*, *Ranulphus Ceſtrenſis*, *Henry de Knighton*, the Book of St. *Albans*, printed by *Caxton* in the year [y] 1502. in his Chronicle, and Mr. *William Pryn* in his late Hiſtory of the Pope's Uſurpations in *England* in the Reign of King *John*, have given a probable accomnt, though many of the Monks, and the then *Romiſh* Clergy, fatned and grown great by the Pope's and their extravagant and never-to-be-proved Authority over Kings and Kingdoms, were ſo unwilling to acknowledge it, as they did all they could to ſtifle and over-caſt with Lies the Truth of it. Whence, in great weakneſs, he (who was ſo little enclined to *Paganiſm*, or the Religion of *Miramolin* King of *Africk*, *Morocco*, and *Spain*, or guilty of ſending Embaſ-

ſadors

[x] *Ranulphus Ceſtrenſis*, *Henry de Knighton*, *Caxton's* Chronicle, & [y] *Pryns* hiſtory of the Pope's Uſurpation in *England* in the Reign of King *John*, 36.

ſadors unto him (after or before the ſurrender of his Kingdoms to the Pope) with an offer to be his Tributary, [z] and of his Religion, of which, ſaith Mr. *Pryn*, upon a moſt diligent ſearch, no *veſtigia* or manner of evidence is to be found amongſt the Records of this Kingdom, it being a meer ſcandal and ſlanderous invective forged againſt him, to make him odious) was conveyed to *Newark*; where, after he had received the *Euchariſt*, and taken order for the ſucceſſion of his Son *Henry*, he departed this life, and was buried at *Worceſter*; and ſuch a care was taken by the Abbot of *Swinſted* for the ſafety of the poyſoning Monk's Soul, as *five Monks* (until the diſſolution of that Abbey, which was 300 years after) were from time to time ſtipended to ſing a *Requiem* for it.

[z] *Pryns* Animadverſions upon the 4*th.* part of *Cokes* Inſtit.

SECT. IV.

The many Affronts, Inſolencies and ill uſages ſuffered by King Henry *III. until the granting of his* Magna Charta *and* Charta de Foreſtæ.

WHich tragical end of King *John*, although it much altered the ſtate of the Kingdom, yet not as to the miſeries and troubles thereof; for King *Henry* his Son being ſolemnly crowned, as a King by Succeſſion, and not Election, was committed to the care and tutelage of *Mareſcal* Earl of **Pembroke*, as Good and Wiſe as he was Great, a main Pillar of the Father, and a Preſerver of the Crown to his Son; who, with *Guallo* the Pope's Legate, the Biſhops of *Wincheſter*, *Bath* and *Worceſter*, did work all means to bring the Barons to an accord, excommunicated *Lewis* and his adhærents, and cauſed great ſatisfaction in the minds of ſome who before were diſguſted with the inſolency of the *French*, and the more upon the confeſſion of one of the Nobility of *France*, who upon his death-bed (touch'd with compunction, revealed the intention of *Lewis* to enſlave or extinguiſh the *Engliſh* Nation, whom he thought not fit to be truſted, in regard that they had forſaken their Sovereign Lord; which wrought ſo great an averſion in the *Engliſh*, as they who before were afraid for the ſhame of inconſtancy, and the danger of their Sons and Pledges carried into *France*, and there remaining, did now reſolve to relinquiſh their Homage and ſworn Fidelity, and forſake him, and made as much haſt to ſend him out of *England*, as they did to call him into it: So as after a years trouble with his Wars and Depræ-

* Daniel 148, 149.

dations,

dations, and all the help the City of *London* could give him, he was enforced to come to an accord, quit the Kingdom, take 15000 Marks for the charges of his Voyage, abjure his claim to the Kingdom, promiſe by Oath to procure (as far as in him lay) his Father to reſtore all ſuch Provinces in *France* as appertained to the Crown of *England*, and when he came to be King, to reſign them in a peaceable manner.

King *Henry* taking an Oath, and for him the Legate and Protector, to reſtore to the Barons and other his Subjects all their Rights and Heritages, with their Liberties, for which the Diſcords began between the late King and his People; whereupon a general Pardon was granted, and all Priſoners freed on both ſides.

Lewis, after ſo long abode with his Army in *England*, being honourably attended to *Dover*, departed the Kingdom, and about *Michaelmas* after, upon the death of his Father, was received, and crowned King of *France*; and *Guallo* the Legate (well paid for his Negotiation) returning to *Rome*, carried with him 12000 Marks, (a great ſum of money in thoſe times;) And no ſooner had that provident Protector of the Kingdom the Earl of *Pembroke* * quieted the many troubles of the Nation, but (as much wanted as greatly lamented by the People) he dyed.

* Daniel 150, 151.

The Biſhop of *Wincheſter*, with many other great Councellors, being made Protectors of the young King and his Kingdoms, but the King of *France* being after requeſted to make reſtitution of what he had uſurped, anſwered, *That what he had gotten by the forfeiture of King* John, *upon an accuſation of murdering his Nephew* Arthur, *right Heir to the Crown of* England, *he would hold.* Howſoever, Peace being made with *Scotland*, to whoſe King the King's Siſter being married, *Wales* revolted, and an Inſurrection being made in *Ireland*, did put the King to much trouble and charge; who being come to ſome years of underſtanding, was in a Parliament holden at *London* put in mind by the Archbiſhop of *Canterbury*, in the behalf of the State, of his Oath made, and taken by others for him, upon the Peace made with *Lewis*, for confirmation of the Liberties of the Kingdom, for which the War was begun with his Father, without which the whole State would again fall aſſunder; and they would have him to know it betimes, to avoid thoſe miſerable inconveniencies which might happen: *William Brewere* a Councellor urging it to have been acted by conſtraint, and therefore not to be performed; Notwithſtanding which, it was at that time (being the *7th.* year of his Reign) promiſed by the King to be ratified, and a Commiſſion was granted by Writs

unto

unto Twelve Knights in every Shire, to examine, *What were the Laws and Liberties which the Kingdom enjoyed under his Grandfather*, and return the ſame by a certain day; which (ſaith the learned and judicious Sir *Henry Spelman*) were never returned, or could not be found. In the mean time, the Earls of *Albemarl*, *Cheſter*, and divers of the Nobility, aſſemble together at *Leiceſter*, with intent to remove from the King *Hubert de Burgh* Chief-Juſticiar, and other Officers, that hindred their motion; but the Archbiſhop of *Canterbury* by his Spiritual Power, and the reſt of the Nobility, being careful to preſerve the Peace of the Kingdom, ſtood to the King, and would not ſuffer them to proceed therein: ſo as they were conſtrained to come in and ſubmit themſelves; And the King in Parliament reſumed ſuch alienations as had been made of the Lands appertaining to the Crown by any of his Anceſtors, to the end he might live of his own, and not be chargable to the People.

The next year after (being the 8*th.* year of his Reign) * another Parliament was holden at *Weſtminſter*, where the King required the *Fiftieth* part of all the movables both of the Clergy and Laity, (but *Mat. Paris* more probably ſaith the *Fifteenth*) for the recovering of thoſe parts in *France* which had been held from the Crown, being one and the ſame which is ſaid in *Magna Charta* to have been granted as a grateful acknowledgment for the grant of their Liberties; which, though it concerned the Eſtates of moſt of the Nobility that had Lands therein, would not be yielded unto, but upon confirmation of their Liberties, *atq; his in hunc diem proſecutis Archiepiſcopus & concilio tota Epiſcoporum, Comitum & Priorum habita deliberatione Regi dedere reſponſum quod Regis petitionibus gratunter ad quieſcerent, ſi illas diu petitas libertates concedere voluiſſet, annuit itaq; Rex cupiditate ductus quod petebant Magnates Chartiſq; protinus conſcriptis & Regis ſigillo munitis*, (in the next year after, * for the Charters themſelves bear date in the 9*th.* year of his Reign;) And the ſeveral Charters, or Copies thereof, were ſent to the Sheriffs of every County, and Twelve Knights were out of every County choſen to divide the Old Foreſts from the New, and lay open all ſuch as had been afforeſted ſince the firſt Coronation of King *Henry* II.

* M. Par. 323.

* 9 H. 3.

Although at the ſame time, or a little before or after it, ſome of the Nobility who had formerly crowned *Lewis* of *France* King, and had been the cauſe of King *John*'s death, (for which they were baniſhed the Realm) endeavouring to return into *England*, and to ſet up again the *French* King's Intereſt, and domineer over the King and his faithful Councellors, * by circumven-

* *Prynn* hiſtory of the Pope's Uſurpation in *England*. 6, 8.

cumventing Pope * *Honorius*; *Hubert de Burgh*, Chief-Juſtice of *England* the Earl of *Cheſter*, and ſeven other of the King's Councellors, ſent an Epiſtle to the Pope, deſiring him to aſſiſt the King and them, and prevent thoſe dangerous Plots and Deſigns.

* Epiſt in *turre Lond* inter Record. ibid.

And the King having ſent alſo his Proctors to *Rome* upon the like occaſion, they returned him an account of a new Confederacy * betwixt his diſcontented Barons and the *French* King to invade *England*; and diſpoſſeſs him of the Crown thereof; adding thereunto, *quod* Gallici *prædicabant omnibus quod majores* Angliæ * *obſides offerebant de reddendo ſibi terram cum primo venire curaret ad illam adjicientes. Si aliquid in curia* Romana *contra voluntatem Regis* Franciæ *attemptaretur incontinenter Rex tranſfretaret in* Angliam.

* ibid. fo. 61.

* Inter record. d anno 8 *H.* 3. in *turre London.*

Nor could any ſuch authority accrue to them, in or by thoſe Charters called *Magna Charta*, and *Charta Foreſtæ*, granted by King *Henry* III. his Son, which were in very many things but the *exemplaria* or patterns of that of King *John* in the like method and tenour, containing very many Liberties and great Priviledges which were by King *Henry* III. (as thoſe Charters do declare) of his own free accord granted and confirmed in the 9*th.* year of his Reign, * to his Subjects, and People of *England*, *Liberis hominibus* Free-men or Free-holders, (for otherwiſe it would have comprehended thoſe multitudes of Villains, Bondmen and Bond-women which the Nation did then and long after employ and make uſe of, and thoſe very many men accounted by the Laws of *England* to be as dead men, *viz.* Monks, Fryers, Priors and Abbots) to be holden to Them and their Heirs of Him and his Heirs for ever.

* Magna Charta 9 *H.* 3.

But in thoſe Charters, or his confirmation of them, in the 21*ſt.* and 28*th.* year of his Reign, could not procure to be inſerted or recorded thoſe clauſes which they had by their terrours gained from his Father in theſe words, *viz. Nullum ſcutagium vel auxilium ponam in Regno noſtro niſi per commune conſilium Regni noſtri ad corpis, noſtrum redimendum & ad primogenitum filium noſtrum militem faciendum & ad primogenitam filiam noſtram ſemel maritandam & ad hoc non fiet niſi rationabile auxilium ſimili modo fiat de auxiliis de Civitate* Londinenſi *quod omnes aliæ Civitates, & Burgi & Villæ & Barones de quinq; portubus & omnes portus habeant omnes libertates & omnes liberas conſuetudines ſuas.*

Et ad habendum commune concilium Regni de auxiliis aſſidendis aliter quam in tribus caſibus prædictis & ſcutagiis aſſidendis ſubmoneri faciemus Archiepiſcopos, Epiſcopos, Abbates, Comites, & majores Barones Regni ſingillatim per literas noſtras.

Et

Et præterea faciemus ſubmoneri in generali per Vicecomites & Ballivos noſtros omnes alios qui in capite tenent de nobis ad certum diem ſcilicet ad terminum quadraginta dierum ad minus, & ad certum locum in omnibus literis ſubmonitionis illius cauſam ſubmonitionis illius exponemus, & ſic facta ſubmonitione negotium procedat ad diem aſſignatum ſecundum conſilium eorum qui præſentes fuerint quamvis non omnes ſubmoniti.

Nos non concedimus de cætero alicui quod capiat auxilium de liberis hominibus ſuis niſi ad corpus ſuum redimendum, & ad faciendum primogenitum filium ſuum militem, & ad primogenitam filiam ſuam ſemel maritandam & ad hoc non fiat niſi rationabile auxilium; but were conſtrained to omit altogether, and forgo thoſe clauſes and proviſions, which being crowded into King *John*'s Charter, were never either granted or confirmed by King *Henry* III. *Edward* I. or any of our ſucceeding Kings; nor, as * Sir *Henry Spelman*, repeating the ſame omiſſions, ſaith, is therein that of paying the Debts of the Deceaſed, (probably of thoſe that died leaving their Heirs in Ward) to the *Jews* and others; although *Matthew Paris* ſo much miſtakes, as to affirm that thoſe Charters of King *John* and his Son *Henry* III. were * *in nullo diſſimiles.*

* *Spelman's gloſſar' 376.*

* Mat. Paris.

Which well-interpreted could ſignifie no more, than that King *John* in his great neceſſities and troubles preſſing upon his Tenants *in capite*, the great Lords and others, by taxing them proportionably according to their *Knights Fees*, they endeavoured by thoſe Charters all that they could to reſtrain him from any ſuch Aſſeſments which ſhould go further then a reaſonable aid, unleſs in the caſes there excepted; and aim'd at no more, then that a *Common-Councel* (which was not then called a * *Parliament*) ſhould be ſummon'd (not annually) of all Archbiſhops, Biſhops, Abbots, Earls, and greater Barons; and all the Tenants *in capite*, being thoſe that were moſt concerned therein, (nor as our Parliaments now, but only as to their aids and ſervices, as Tenants *in capite*) were upon forty days notice to appear at the ſame time and place, given in general by the King's Sheriffs and Bailiffs, *& ſic factâ ſubmonitione negotium procedat ad diem aſſignatam ſecundum* * *conſilium eorum qui præſentes fuerint, quamvis non omnes ſubmoniti venerint*, and could not be intended of our now *Houſe of Commons* in Parliament, many years after (firſt of all, and never before) introduced or conſtituted: that præfiction of *Forty days* probably firſt creating that opinion, which (can never arrive unto any more then) that every ſummons of ſuch a Councel or Meeting was to be upon ſo many days notice or warning; which Mr. *Pryn*, upon an exact obſer-

* *Pryn's* Animadverſions upon *Coke's* 4. part of the Inſtitutes.

* M. Par. 257.

vation of ſucceeding Parliaments, hath found to be otherwiſe: much of the boiſterouſneſs, haughty, and long after unquiet minds of ſome of thoſe unruly Barons being to be attributed to the over-ſtrained promiſes and obligations of *William* the Conquerour, (before he was ſo) to his *Normans*, and other Nations that adventured with him, upon an agreement and Ordinance made in *Normandy* before his putting to Sea, (which the King of *France* had in the mean time, upon charges and great allowances made unto him, undertaken to guard) and long after, by the command of King *Edward* III. then warring in *France* in the 20*th*. year of his Reign, was by Sir *Barth. Burgherſh* and others ſent from thence in the preſence of the Keeper or Guardian of *England*, and the whole Eſtate declared in Parliament as a matter of new diſcovery, and deſigns of the *French* happened in the traverſe and ſucceſs of thoſe wars; which probably might make the Poſterity of ſome of them (although the Anceſtors of moſt of them had been abundantly recompenced by large ſhares of the Conqueſt, Gifts and Honours granted by the Conquerour, to a more than competent ſatiety, extended to the then lower Ranks of his Servants, Souldiers, or Followers; as, that to *de Ferrariis*, the Head afterwards, and chief of a greater Eſtate and Family in *England* than they had in *Normandy*; and might be the occaſion of that over-lofty anſwer of *John de Warrennis* Earl of *Surrey*, in his anſwer to ſome of the Juſtices in *Eyre*, in the Reign of King *Edward* I. when demanded by what warrant he did hold ſome of his Lands and Liberties? he, drawing out a ruſty Sword, (which he did either wear, or had brought with him for that purpoſe, ſaid, *By that which he helped* William *the Conquerour to ſubdue* England) ſo greatly to miſtake themſelves, as to think (which the Lineage of the famous *Strongbow* Earl of *Pembroke*, and ſome eminent Families of *Wales* in the after-Conqueſt of *Ireland*, never adventured to do) that the Anceſtors of them and others, that left their leſſer Eſtates in *Normandy*, to gain a greater in *England* to be added thereunto, had not come as Subjects to their Duke and Leige-Lord, but Fellow-ſharers and Partners with him; which they durſt not ever after claim in his life-time, or the life of any of his Succeſſors before, in the greateſt advantages they had of them, or the many Storms and Tempeſts of State which befel them; but might be well content, as the words of the Ordinance it ſelf do expreſs, * *That they and their Progenies ſhould acknowledge a Sovereignty unto the Conquerour, their Duke and King, and yield an Obedience unto him and his far-fam'd Poſterity, as their firſt and continued Benefactors.*

And

* *Pryn*'s Animadverſions upon *Coke*'s 4. part of the Inſtitutes.

* *Tabulæ cenſuales Angliæ*, or Dooms-day-book. *Dugdale*'s Baronage, 1 tome tit. *Warren*. Earl of *Surrey*, and *Ferrers* Earl of *Derby*; and his *Preface* to the Antiquities of *Warwickſhire* illuſtrated.

And those their Liberties and Priviledges freely granted by those Charters, (and not otherwise to be claimed) were so welcome, and greatly to be esteemed by the then Subjects of *England* * as they returned him their gratitude and thankfulness for them, in a contribution of the fifteenth part of all their Moveables, with an Attestation and Testimony of the Wiser, more Noble, and Powerful part of the Kingdom, (*viz.* the Archbishop of *Canterbury*, Eleven other Bishops, Nineteen Abbots, *Hubert de Burgh* Chief-Justice, Ten Earls, *John* Constable of *Chester*, and Twenty-one Barons, men of Might and great Estates; amongst which there were of the contending and opposite Party, *Robert Fitz-Walter*, (who had been General of the Army raised and fighting against his Father) the Earls of *Warren*, *Hereford*, *Derby*, *Warwick*, *Chester*, and *Albemarl*, the Barons of *Vipont* and *Lisle*, *William de Brewere*, and *Gilbert de Clare* Earl of *Glouceſter* and *Hertford*, who afterwards fought against that King, and helped to take him Prisoner,) That those Charters were given and granted unto them, and other his Subjects the Free-men of his Kingdom, of his own free will and accord.

* Magna Charta 9 *H.* 3. c. 31.

And as to that of being not * condemned without Answer or Tryal, (which in the infancy of the World was by the Creator of all Mankind recommended to its imitation, as the most excellent Rule and Pattern of Justice, in the Tryal and Sentence of *Adam* and *Eve* in *Paradise*) are not to be found enacted or granted in King *Edward* the *Confessor*'s Laws, or the Charters or Laws of King *Henry* I. the people of *England* having no (or little) reason much to value or relie upon the aforesaid Charters of King *John*, gained indirectly, by force, about two years after his as aforesaid constrained Resignation of his Kingdom of *England*, and Dominion of *Ireland*, to hold of the Pope, and Church of *Rome*, by an yearly Tribute, being not much above Thirty years before, and not then gone out of memory.

* 9 *H.* 3. c. 29.

SECT. V.

Of the continued unhappy Jealouſies, Troubles, and Diſcords betwixt the diſcontented and ambitious Barons, *and King* Henry *III. after the granting of his* Magna Charta *and* Charta de Foreſtâ.

ALmoſt two years after which, the King in a Parliament at *Oxford* declaring himſelf to be of full age, and free to diſpoſe of the affairs of the Kingdom, cancelled and annulled the *Charter of the Foreſts*, as granted in his Non-age, when he had no power of Himſelf, or his Seal, and therefore of no validity; cauſed a Proclamation to be made, that both the Clergy and Laity that would enjoy their Liberties, ſhould renew their Charters, and have them confirmed under his new Seal, paying for them according to the will of *Hubert de Burgh*, his Chief-Juſticiar, upon whom was laid the blame of that matter; and ſhortly after, the King and his Brother, *Richard* Earl of *Cornwal*, being at diſcord about the Caſtle of *Barkhamſtead*, which the Earl claimed to belong to his Earldom; and the Earl being threatned to be arreſted, fled to *Marlborough*, where the diſcontented Lords joyning unto him, did cauſe an Inſurrection, and required reſtitution to be made, without delay, of the Liberties of the Foreſts, cancelled at *Oxford*; otherwiſe he ſhould be thereunto conſtrained by the Sword.

In *anno* 12°. of his Reign, a Parliament was aſſembled at *Northampton*, where an agreement was made, and the Lands of the Earls of *Britain* and *Bologne* reſtored unto them.

In the 16*th*. year of his Reign, although he put out *Hubert de Burgh*, Chief-Juſtice of *England*, (in which Office much of the buſineſs of the Lord Treaſurer were in thoſe times concentered) and ſeverely called him to an account for Debts due to him and his Father, * Rents and Profits of all his demeſne Lands, ſince the death of *William Mareſcal* Earl of *Pembroke*, in *England*, *Wales*, *Ireland* and *Poictеau*, of the Liberties of Foreſts, Warrens, County-Courts, and other places, *qualitèr cuſtodiæ ſint vel alienatæ, de priis factis pro jure ſuo relaxando tam in terris quàm in Nobilibus*, of waſts made *ſine commodo ipſius Regis tam per guerram quam alio modo*, of Liberties given unto him, Biſhopricks and Cuſtodies, without Warrant, *quæ pertinent ad Dominum Regem*, of wrongs and damages done to the Pope's Legates and Clarks, *contra voluntatem Domini Regis per auctoritatem ipſius* Huberti *tunc Juſticiarii qui nullum concilium voluit apponere ut illa corrigerentur quod facere tenebatur ratione officii ſui, de*

* Mat. Paris 380. Spelman gloſſar' 331, 332.

pace

pace Regis qualiter ſit cuſtodita, as well concerning *homines terræ ſuæ* Angliæ, Hyberniæ, Gaſconiæ, *&* Pictaviæ, *quàm alios extraneos, de ſcutagiis, carucagiis, donis, & xeniis, ſive cuſtodiarum exitibus ſpectantibus ad Coronam de maritagiis*; which he had by grant of King *John* the day that he dyed, *& de aliis maritagis ſibi traditis tempore ſuo & de ipſis quæ ipſe Rex amiſit per negligentiam ipſius* Huberti; And ſo fiercely proſecuted him, as he cauſed him by force to be dragged from the Altar in the Sanctuary, Impriſoned, and, as Sir *Henry Spelman* ſaith, did afterwards charge *Stephen Segrave* with many of the like, and diſplaced him: Yet the Lords threatned, not to come to his Councel, unleſs he would reform his errors.

And in the 17*th*. year of his Reign, a Parliament was ſummon'd at *Oxford*, whither they likewiſe refuſed to come, becauſe they were deſpiſed by Strangers; whereupon it was decreed that they ſhould be a ſecond or third time ſummon'd, to try if they would come.

After which, thoſe refractory Lords were ſummoned to come to a Parliament at *Weſtminſter*, whither they denyed alſo to come, unleſs he would remove the Biſhop of *Wincheſter*, and the *Poictovins* from his Court; otherwiſe by the Common-Councel of the Kingdom, they ſent him expreſs word, they would expel Him and his evil Councellors out of the Land, and deal for the creation of a new King; whereupon Pledges being required of the Nobility, for ſecurity of their Allegiance, no Act paſſed in that Parliament, though divers Lords came thither, as the Earls of *Cornwal*, *Lincoln*, *Ferrers*, and others; But in regard that the Earl-Marſhal, the Lord *Gilbert Baſſet* and others were not preſent, Writs were ſent to all that held by Knights-Service to repair to the King at *Glouceſter* by a certain day; whither the Earl-Marſhal and his Aſſociates refuſing to come, the King, without the Judgment of their Peers, cauſed them to be proclaimed *Outlaws*. * Daniel 154.

Anno 19°. of his Reign, after two years troubles and miſery, a Parliament was aſſembled at *Weſtminſter*, where the King conſented to call back the diſ-herited Lords, upon the Biſhops threatning to excommunicate Him and his evil Councellors.

Anno 20°. *Henry* III. a Parliament was aſſembled at *London*, which the King would have there to be holden, but the Barons would not come, unleſs it might be another place; whereupon a place of more freedom was propounded, where many things were propoſed, and order taken that all Sheriffs ſhould be removed from their Offices upon complaint of corruption, and others

thers of more Integrity put in their rooms, upon their Oaths not to take any gifts.

When the King offering to take away the great Seal of *England* from the Bishop of *Chichester*, * he refused to deliver it, saying, *He received it by the Common-Council of the Kingdom, and without their assent he would not resign it.*

* Daniel 157.

A Parliament was held at *London*, *anno* 21°. *Henry* III. wherein he required the Thirtieth part of the Movables as well of the Laity as Clergy; But it was alledged, that the people were unwilling to have it given to Aliens; whereupon the King promiseth * never more to injure the Nobility, so that they would relieve him at the present, for that his Treasure was exhausted; * To which they plainly answer, *That the same was done without their counsel; neither ought they to be partakers of the punishment, who were free from the fault.* Howsoever, after four days consultation, the King promising *to use the counsel of his natural-born Subjects*, and freely granting the inviolable observation of their Liberties under pain of Excommunication, had yielded to him the *Thirtieth* part of all their Movables, (reserving their ready Coyn, Horse and Armour, to be employ'd for the defence of the Commonwealth) which was ordained to be collected by four Knights of every Shire, who should upon their Oaths receive and deliver the same into some Abbey or Castle, there to be reserved, that if the King should not perform his promises, it might be again restored; upon condition often annexed, *That the King should leave the counsel of Aliens, and only make use of his natural Subjects.* Yet, although he caused the Earls *Warren* and *Ferrers*, and *John Fitz-Geffry*, to be sworn of his Councel, that could not reach to a satisfaction of those that were not so willing as they ought to be satisfied: when the King also, in performance of his promise to the Bishops and Nobles, had in that Parliament, for the salvation of his Soul, and exaltation of the Church, (being of full age) re-confirm'd the great Charter of the *Liberties of the Forests*, attested by twelve Bishops, eight Earls, and *Symon de Montford*, and *William Longspee*, twenty-six Barons and great Men, notwithstanding they were granted during his minority: complaints were made *of the wast and profusion of his Treasure, and great sums of money raised in his time; and that the Orders concluded in Parliament were not observed, in the levying and disposing of the Subsidy; and overstrict courses had been taken in the valuation of mens Estates;* William Valence, *the Queens Uncle, was grown the only man with him, and nothing was done without him; the Earl of* Provence, *his Father, (a poor Prince) was invited to come into* England, *to partici-*

* Anno 21 H. 3.

* Daniel 157.

* Ro'Cart. 21 H. 3. m. 7.

pate

pate of the Treaſure and Riches thereof; Symon de Montfort, *a* French-*man born, baniſhed out of* France *by Queen* Blanch, *was entertained in* England, *preferred ſecretly in marriage with the King's Siſter, Widow of* William *Earl of* Pembroke; *the great* Marſhal *made Earl of* Leiceſter, (*and Steward of* England) *in the right of his Mother* Amice, *Daughter of* Blanchmains *Earl of* Leiceſter: Which incenſing many of the Nobility, and in them not a few of the common people, did begin to raiſe a Commotion, wherein they procured *Richard* Earl of *Cornwal*, Brother to the King, and Heir-apparent, (the King having then no Child) to head their Party, and manage their Grievances; which, amongſt many pretended, were, *That he deſpiſed the counſel of his natural Subjects, and followed that of the Pope's Legate, as if he had been the Pope's* Feudatory; Upon which harſh Remonſtrance, the King having ſent to ſound the affections of the *Londoners*, found them to be againſt him.

Summoned a Parliament in the 22*d*. year of his Reign at *London*, whither the Lords came armed, both for their own Safety, and to conſtrain him, if he refuſed, to the keeping of his promiſes, and reformation of his courſes; wherein, after many debatements, the King taking his Oath to refer the buſineſs according to the order of certain grave men of the Kingdom, Articles were drawn, ſealed, and publickly ſet up, under the Seals of the Legate, and divers great Men; But before any thing could be effected, *Symon Montfort* working a Peace for himſelf with the Earls of *Cornwal* and *Lincoln*, with whom he and the other Barons had been before diſpleaſed, the Earl grew cold in the buſineſs; which the other Lords perceiving, nothing more was at that time done. *Symon Norman*, called *Maſter of the King's Seal*, and ſaid to be Governour of the affairs of the Kingdom, had the Seal taken from him, and ſome others whom the Nobility maligned, diſplaced.

And in the ſame year an *Aſſaſſinate* attempting to kill the King as he was in Bed, inſtigated thereunto by * *William de Mariſco* the Son of *Jeffrey de Mariſco*, was for the Fact drawn in pieces with Horſes, and afterwards hang'd and quarter'd. And ſome years after, the King having a Son born, (his Brother the Earl of *Cornwal* having likewiſe Iſſue) did, by permiſſion of the State, which before he could not obtain, undertake the Croſs, and with him the Earl of *Salisbury*, and many other Noblemen. The Earl of *March*, the Queen-Mother, and certain Lords of *Poictеau*, incited the King to make a War with *France*; to which ſome of the *Engliſh*, who claimed Eſtates therein, were very willing; but the matter being moved in Parliament,

* Mat. Paris 458, 459. Matthew of *Weſtminſter* 249 *Pryn's* hiſt. of the Pope's Uſurpation in *England*.

a general oppoſition was made againſt it, the great expences thereof, and the ill ſucceſs it lately had; and it was vehemently urged, *That it was unlawful to break the Truce made with the King of* France, *who was now too ſtrong for them*; notwithſtanding, many of the Peers, in the hopes of recovering their Eſtates, ſo prevailed, as an Aid demanded for the ſame was granted; but ſo ill reſented by others, as all the King's ſupplies, from the beginning of his Reign, were particularly and opprobriouſly remembred, as the *Thirteenth*, *Fifteenth*, *Sixteenth*, *Thirtieth* and *Fortieth* part of all mens Movables, beſides *Carucage*, *Hydage*, *Eſcuage*, *Eſcheats*, *Amerciaments*, and the like, which would, as they ſaid, be enough to fill his Coffers; in which conſiderations alſo, and reckonings, with the Pope's continual exactions, and the infinite charge of thoſe who undertook the Holy War, were not omitted; beſides, it was declared, *how the Thirtieth lately levyed, being ordered to be kept in certain Caſtles, and not to be iſſued but by the allowance of ſome of the Peers, was yet unſpent, the King no neceſſary occaſion for it for the uſe of the Commonwealth, for which it was granted*; and therefore reſolutely denyed to grant any more; whereupon he came himſelf to the Parliament, and in a ſubmiſſive manner craving their aid, urged the Popes Letter to perſwade them thereunto; but by a vow made unto each other, all that was ſaid was not able to remove their reſolutions, inſomuch as he was driven to get what he could of particular men, by Gifts, or Loans; and took ſo great a care of his poorer Subjects, at or about the ſame time, as he did by his Writ in the 23*d.* year of his Reign command *William de Haverhul* and *Edward Fitz-Odo*, That upon *Friday* next after the Feaſt of St. *Matthias*, being the Anniverſary of *Eleanor* Queen of *Scotland* his Siſter, they ſhould cauſe to be fed as many Poor as might be entertained in the greater Hall of *Weſtminſter*; and did in the ſame year by another Writ command the ſaid *William de Haverhull* to feed 15000 Poor at St. *Peters* in *London* on the Feaſt-day of the *Converſion of St. Peter*, and 4000 Poor upon *Monday* next after the Feaſt of St. *Lucie* the Virgin in the great Hall at *Weſtminſter*; And for quiet at home whilſt he ſhould be abſent in *France*, contracted a marriage betwixt his youngeſt Daughter *Margaret*, and *Alexander* eldeſt Son of *Alexander* III. King of *Scotland*; but his expedition in *France* not ſucceeding, his Treaſure conſumed upon Strangers, the *Engliſh* Nobility diſcontented, and by the *Poictovins* deceiving his Truſt, in their not ſupplying him with money: he was, after more than a years ſtay, (the Lords of *England* leaving him) conſtrained to make a diſhonourable Truce with the King of *France*, and to return,

*Ro. clauſe 23 H. 3. m. 14. & 18 & 80.

return, having been relieved with much Proviſions out of *England*, and Impoſitions for Eſcuage, a Parliament was in the 28*th.* year of his Reign aſſembled at *Weſtminſter*, wherein his Wars, the revolt of *Wales* and *Scotland*, who joyned together, and the preſent occaſions of the neceſſary defence of the Kingdom, being preſſed, nothing could be effected without the aſſurance of Reformation, and the due execution of Laws; whereupon he came again himſelf in perſon, and pleaded his own neceſſities; but that produced no more than a deſire of theirs, [a] to have ordained, that four of the moſt grave and diſcreet Peers ſhould be choſen as *Conſervators* of the Kingdom, and ſworn of the King's Council both to ſee Juſtice obſerved, and the Treaſure iſſued, and ever attend about him, or at leaſt three or two of them: That the Lord *Chief-Juſticiar* and Lord *Chancellor* ſhould be choſen by the general voices of the States aſſembled, or elſe be of the number of thoſe four; and that there might be *two Juſtices of the Benches*, *two Barons of the Exchequer*, and one Juſtice for the *Jews*; and thoſe likewiſe to be choſen by Parliament, that as their Function was publick, ſo ſhould alſo be their Election. At which time the Pope ſending his Legate with a large power to exact money for himſelf, his Agent was diſgracefully returned, with an anſwer, *That the Kingdom was poor, the Church in debt, and it was of a dangerous conſequence to the State to be expoſed to the will of the Pope; and therefore ſeeing a General Councel was ſhortly to be held at* Lyons, *if the Church would be relieved, it were fit to be done by a general conſent of that Councel.*

[a] Daniel 161.

And the Emperour *Frederick* at the ſame time, by his Letters to the King, which were openly read, deſiring, as he had often before, *That the Pope might have no ſupplies ou of* England; *for that therewith he did oppreſs him, by ſeizing upon his Caſtles and Cities appertaining to the Empire*: *notwithſtanding his often ſubmiſſions, deſire of Peace, and offers to refer the cauſe to the arbitration of the Kings of* England *and* France, *and the* Baronage *of both Kingdoms*; and entreating *that he might not receive a detriment, whence as a Brother and Friend he expected a favour*, added, *that if the King would be adviſed by him, he would by power free the Kingdom from that unjuſt Tribute which Pope* Innocent *III. and other Popes had laid upon it*; Which pleaſing the Aſſembly, the buſineſs took up ſo much time, as (the deſign of a ſhare in the Government, ſomething like, if not worſe then a *Co-ordination*, meeting with no conceſſions or effect) they only granted an Aid to the King for the Marriage of his Daughter, 20 *s.* of every Knights Fee, not without much ado, and repetition of all

his former Aids; although at the ſame (or much about that) time they could not be ignorant that he had by his Writ commanded *Hugh Gifford* and *William le Brun*, that [b] upon *Friday* next after the *Epiphany* they ſhould cauſe to be fed in the Hall at *Windſor*, *ad bonum focum omnes pueros pauperes & egenos quos invenire poterint, ita quod aula impleatur ſi tot inveniantur.*

[b] Ro' clauſ. 28 H. 3.

The Charters were again ratified, which confirmation is printed in the percloſe or latter-end of thoſe in the 9*th.* year of that perſecuted Prince, after a propoſal of *Conſervators*, and election of Judges and Lord *Chancellors*, rejected, which was urged, and much inſiſted upon.

After which, and his return from an expedition with great charges into *Scotland*, a Parliament was ſummoned, where he moved for an Aid againſt an Inſurrection in *Wales*, and for money to ſupply his wants, and pay his Debts, which were ſo great, as he could not ſtir out of his Chamber for the clamour of thoſe to whom he ow'd money for Wine, Wax, and other neceſſaries of Houſe-keeping: which wrought ſo little, as to his face they denied to grant him any thing; and enquiry being made what Revenues the *Romans* and *Italians* had in *England*, they found them to have been annually 60000 Marks; which being notified to the General Councel at *Lyons*, the Pope was ſo vexed therewith, as he was ſaid to have uttered theſe words, *The King begins to* Frederize, *it is fit that we make an end with the Emperour, that we might cruſh theſe pety Kings; for the Dragon once deſtroyed, theſe leſſer Snakes will ſoon be trodden down.*

In the 32*d.* year of his Reign a Parliament being convoked, he was upon requiring another aid ſharply reproved for his breach of promiſes; and it was alledged, that his Judges were ſent in Circuit under pretence of Juſtice to fleece the people; that his needleſs expences amounted to above 800000 *l.* and adviſing him to recal the old Lands of the Crown, and pull them from his Favourites, enriched with the Treaſure of the Kingdom, told him of his Oath made at his Coronation.

Complained, that the *Chief-Juſticiar*, *Chancellor* and *Treaſurer* were not made by the Common-Councel of the Kingdom, according as there were in the time of his Magnificent Predeceſſors; although they could not at the ſame time deny him that Right which was juſtly due unto him; that he had by his Writs [c] commanded the ſaid *William de Haverhul* and *Edward of Weſtminſter*, *quod ſingulis diebus à die natalis domini uſq; ad diem circumciſionis, computatis illis duobus diebus, impleri faciant magnam*

[c] Ro' clauſ. 32 H. 3. m. 15.

aulam

aulam Regis de pauperibus; and in the ſame year by his Writ commanded *William de Haverhul* his Treaſurer, and *Edward Fidz-Odo*, to feed upon the day of *Edward* the *Confeſſor*, *pauperes in magna aula* Weſtmonaſterium, *ſicut fieri conſueverunt & ipſis Monachis* Pittanciam *eodem die ſicut conſueverunt faciant.*

The King promiſed redreſs, but nothing was effected: ſo that after ſundry meetings, and much debate, the Parliament was prorogued until *Midſummer* following; and at the next Seſſion he tells them, that *they were not to impoſe a ſervile condition upon him, or deny him that which every one of them might do, to uſe whom they pleaſed as Counſel; Every Maſter of a Family might place or diſplace what Servants he pleaſed; Servants were not to judge their Maſters, nor Subjects their Prince, or hold them to their conditions; and that he that ſhould ſo encline to their pleaſures, ſhould not be their King, but as their Servant.*

And being conſtrained to furniſh his wants with the ſale of his Plate and Jewels, his Crown of Gold, and *Edward* the Confeſſor's Shrine, and with great loſs received money for them, enquired who had bought them, whereunto anſwer being made, that the City of *London* had bought them; [d] *That City* (ſaid he) *is an inexhauſtible Gulf: if* Octavius's *Treaſure were to be ſold, they would ſurely buy it.*

[d] *Daniel* in the life of K. *H.* 3. 164, 165.

Howſoever, being beſides conſtrained to borrow 20000 *l.* of the City of *London*, he wrote to every Noble-man and Prelate apart, to borrow money, but got little; the Abbot of *Ramſay* lent him 100 *l.* but the Abbot of *Burgh* could not ſpare him ſo much, although the King told him, *It was more Alms to give unto him, than to a beggar that went from door to door.*

The Lords in the 34*th.* year [e] of his Reign aſſembled again at *London*, and preſſed him with his promiſes, that the *Chief-Juſticiar*, *Chancellor*, and *Treaſurer* ſhould be conſtituted by the general Councel of the Kingdom; but by reaſon of the abſence of the Earl of *Cornwal*, nothing was done therein.

[e] Daniel 165. Ro' pat. 35 *H.* 3. m. 6.

The King demanding [f] aid of his Prelates and Nobility aſſembled in Parliament, they by agreement amongſt themſelves ſtoutly denied it; which greatly troubling him, he ſhewed them the Note or Roll what moneys ſome few Abbots had lent unto him, with an *Ecce*, how little it was! with which not being able to remove their fixed reſolutions, he with ſome anger expoſtulating, told them, *Ero nè perjurus? juravi ſacramento intranſgreſſibili transfretans jura mea in brachio extento à Rege* Francorum *repoſcam, quod ſine capioſo theſauro qui à veſtra liberalitate procedere debet nequaquam valeo*; and that not prevailing, called *aliquos ſibi familiares affatus eos ait quid pernicio-*

[f] *Mat. Paris* 580, 581, 583.

ſius exemplum aliis præbetis? vos qui Comites & Barones, Milites ſtrenui, eſtis non deberetis etſi alii timeant, ſcilicet, Prælati Eccleſiæ trepidare; avidiores cæteris deberetis jura Regni reſpoſcere & contra injuriantes Martia certamina potentèr experiri, noſtram partem ſolidare & conſolari tenetur jus noſtrum quod habemus; & quâ fronte poteritis dominum veſtrum ad tàm arduum negotium Reipublicæ procinctum relinquere pauperem & deſolatum, cum tenear promiſſa de tranſitu meo adimplere jurejurando ſtrictius obligatus? All which proving ineffectual, made the King to be more angry; inſomuch as *jurans cum ſanctorum atteſtatione, quod nullo revocaretur terrore nullis verborum ambagibus circumventus ab incepto propoſito revocaretur, quin' in* Octavis Paſchæ *naves aſcendens fortunam belli in partibus tranſmarinis contrà* Francos *imperteritus experiretur: & ſic ſolutum eſt concilium, utrobiq; repoſita ſed occulta mentis indignatione.*

Diſpoſitis igitur navalibus armamentis commendataq; Regni cuſtodia Archiepiſcopo Eboracenſi *Idus* Maii, *diſpoſitis legionum ſuarum agminibus & repletis triginta* Cadis *deſideratiſſimis* Eſterlingis *Comitante Regina fratreq; ſuo* Richardo *Comite cum aliis ſeptem Comitibus, 300 Circiter militibus Naves aſcendens verſus* Burdegalinos *iter direxit proſperè velificando.*

After which, and many other troubles and diſtreſſes accumulated and thronging in upon him one after another, he did in the 34*th.* year of his Reign ſend his Precept to the City of *London*, requiring them with all their Families, even to a Child of 12 years old, to come upon the *Sunday* next after the Feaſt *Sanctorum perpetuæ & felicitatis* unto him in the great Hall of his Palace of *Weſtminſter*, where appeared ſuch a multitude, as the Hall and Yard were wonderfully crowded, *Quibus congregatis Dominus Rex humilitèr quaſi lachrymis abortis*, did ſupplicate them, that every one of them would with heart and mouth pardon the anger and ill will which they had againſt him, confeſſed that He and his Miniſters had often wronged them in their Goods, Eſtates and Liberties, and prayed them to pardon him.

Which wrought ſo much compaſſion (for the time) in them, as, although they had no reſtitution, they did not think fit to repeat their Sufferings: that Deſign availing the King as little as the pity of the Men, Women and Children of *London* did, when thoſe that were fit and able to bear Arms did not long after fight as well as they could againſt him at the Battel of *Lewes*, where he was taken Priſoner, and ſuffered him to be carried a year and a quarter together by an Army of Rebels, to *London* and *Weſtminſter*, and to ſeveral other parts

of

of the Kingdom; and never offered to Relieve or Reſcue Him.

In or about the 35*th.* year of the Reign of King *Henry* III. *Henry de Bathenia, miles literatus legum terræ peritiſſimus Regis Juſticiarius & Conciliarius ſpecialis*, being in Parliament, *diffamatus & graviter accuſatus, quod ſibi unimm amicus quod in unum annum Domini Regis ſubdolus ſupplantatur in officio Juſticiario ſibi commiſſo crumenas aliorum & ſuas impregnatas non erubuit nec formidavit hinc inde delinquentes recipere ambidexter; In brevi ita illico ditabatur in redditibus maneriis auro & argento; ut nulli Juſticiariorum ſecundus videretur*; and grew ſo haughty in the ſtrength and aſſiſtance of the Families of the *Baſſets* and *m - fords*, as he almoſt ſcorned and deſpiſed every man: inſomuch as the King being very angry with any that interceded for him, anſwered *John Manſel*, Clerk, (much employed and favoured by him, who had offered to be his Bail) that he ſhould *ſtare Juſticiæ*; that *non oportet aliquem Clericum pro eo fide-juſſorem in tali Caſu reputans cauſam hanc eſſe crimen læſæ Majeſtatis, accedente igitur Epiſcopo* Londinenſi, *& quamplurimis interceſſoribus admiſſus eſt cuſtodiæ & plegio viginti quatuor militum qui pro ipſo* Henrico *reſponſionem & juſtificationem ritè & juſtè facerent dato termino factorum.* Whereupon the ſaid *Henry de Bathenia, vafer & circumſpectus*, making all the Friends he could to pacifie the King, and finding nothing could prevail, made an Addreſs to the Earl of *Cornwal* the King's Brother: who not prevailing, was heard to ſay unto ſome of his friends, *Non poſſumus deeſſe Nobilibus in jure ſuo, nec paci Regni turbantis.* Mat. Par. 812, 15.

After all which, in the ſame year, by adjournment, the buſineſs of *Henry de Bathe* coming again into queſtion in Parliament, and debate, *Rex perſequebatur undique, graviter ab adverſariis ſuis fuerat impetitus & accuſatus, Rex autem ira maxima accenſus contra eum qui venerat multò ſtipatus milite de genere Uxoris ſuæ & amicis & ſuis propriis accuſavit ipſum gravius cæteris, imponens eidem inter cætera quod totum Regnum perturbavit & barnagium univerſum contra ipſum Regem exaſperavit, unde ſeditio generalis imminebat fecit igitur acclamari voce præconia* Londini, *& in Curia ut ſi quis aliquid haberet actionis vel querelæ adverſus* Henr' de Bathenia, *veniret ad Curiam ante Regis præſentiam, ubi plenè exaudiretur; Inſurrexerunt igitur multi queruli contra eum, ita quod unus etiam ſociorum ſuorum, ſcilicet & Juſticiarius, palam proteſtaretur quod unum faconioſum Convictum & incarceratum abire permiſit impunitum ſine judicio opinus reſpectus muneribus quod factum eſt in Regis præjudicium & juſticiariorum Comitum ſuorum periculum & diſcrimen.*

Rex

Rex igitur magis inde provocatus aſcendit ſuperius, exclamavitq; dicens, ſi quis Henricum de Bathenia *occiderit quietus ſit à morte ejus & quietum eum proteſtor; & ſic properè receſſit* Rex. *Et fuerunt ibi multi qui in ipſum* Henricum *irruiſſent, niſi Domini* Johannis Manſel *prudentia eorum impetum temperans refrenaſſet; Dixit enim, Domini mei & amici, non eſt neceſſe quod in ira prepropere dicitur proſequamur, pœnitebit enim fortè Dominum noſtrum jam elapſo iræ tempore hæc jutonuiſſe; præterea ſi aliquid violentiæ ipſi* Henrico *intuleritis, ecce Epiſcopus* Londinenſis, *qui ſpiritualem & alii amici ejus militares qui vindictam exercebunt materialem; & ſic in magna parte ceſſavit. Extunc igitur procurante efficaciter Comite* Richardo *& Epiſcopo memorato nutius actum eſt cum eo, dictum enim eſt Domino Regi ſecretius quod mirum eſt quod aliquis ei curet ſervire cum eis poſt miniſterium etiam mortem mittitur inferre, promiſſa igitur quadam pecunia ſumma à mortis diſcrimine receſſit liberatus.* Which the King was ſo unwilling to be cozen'd of, as he took a care to have paid in this manner, as the Record thereof will evidence, *viz. Rex omnibus, &c. univerſitas veſtra (noverit) nos de bono corde penitus remiſiſſe dilecto & fideli noſtro* Henr' de Bathenia, *& propriæ familiæ omnem indignationem & omnem rancorem quem erga ipſum* Henricum *pro quibuſcunq; tranſgreſſionibus uſq; ad diem Dominicam proximam poſt feſtum tranſlationis beati* Thomæ Martyris, *anno, &c. triceſimo quinto, ita tamen quod pro remiſſione illa dabit nobis prædictus* Henricus *duo millia marcarum, unde ſolvet nobis ducentas marcas per annum, videlicet, in Feſto Sancti* Michaelis *anno eodem cent' marc', & ad* Paſch' *prox' ſequen' cent' marc', & ſic de anno in annum ad eoſdem terminos cent' marc' donec prædicta duo millia marc' nobis fuerint perſoluta & ſi forſitan contigerit quod præfat'* Henr' *medio tempore in fata conceſſerit, antequam prædicta pecunia nobis fuerit perſoluta, hæredes ſui eandem ſolutionem facient ad eoſdem terminos ſicut prædictum eſt & perdonationis eidem* Henr' *amerciamentum in quod incidit per attinctam quam* Thomas de Muleton *arramavit verſus ipſum de ten' in* Holbech *& Querpilan' idem etiam* Henr' *juri omnibus de eo conqueri volentibus etiam nobis in Curia noſtra, ſecundum Legem & Conſuetudinem Regni noſtri, in cujus, &c. Teſte Rege apud* Wodeſtock, *octavo die* Julii, *T.* Johanne Manſel, *&* Richardo *Fil'* Nicholai.

Ro' clauſe 37, & 46 H. 3.

In the mean time, *Lewis* King of *France* warring in the *Holy-Land*, and being taken Priſoner, the Pope ſolicited him to take upon him the Croſs to reſcue him, *Alphonſus* the King of *Caſtile* undertaking to accompany him, and the captive King offering to reſtore *Normandy* to the King of *England* for his aſſiſtance; which the *French* diſdaining, and undertaking themſelves to procure

procure his Ranſom, upon the Pope's granting a Tenth to be leavied upon the Clergy and Laity for three years: the King undertakes notwithſtanding the Croſs, upon the hopes of getting the money, (which, [h] ſaith *Matthew Paris*, being collected, would have amounted unto 600000 *l.*) as was then believed, more than to perform his promiſe.

[h] Mat. Paris.

Whereupon ſhortly after a Parliament was holden about the Tenth granted by the Pope for the recovery of the *Holy-Land*: where the Biſhops, notwithſtanding that he had for the eaſe of his Subjects ſeverely accuſed in Parliament *Henry de Bathonia*, one of his Juſtices, for receiving of Bribes, were firſt dealt withal, abſolutely denied it; and the Lords alledging they would do as the Biſhops did, the City of *London* was again compelled to the contribution of 2000 *l.* The *Gaſcoigns* likely to revolt, if a ſpeedy remedy were not provided, general Muſters were made, and command given, that every one that could diſpend 13 *l. per annum*, ſhould furniſh out an Horſeman; which, together with his extreme wants, occaſioned another Parliament, who finding it to be better for the people to do it in the uſual way, than force him to thoſe *extravagant* (as they call'd them) *courſes* which he took, were, after fifteen days conſultation, in the 37*th.* year of his Reign, (although they could not be then ignorant that he had but lately grievouſly puniſhed and expelled the *Caurſini*, the Pope's Bankers, or money-Collectors and Brokers, and could not deny his own wants, which appeared in the pawning of his Jewels and Ornaments; and in the end, as Sir *Robert Cotton* (if he were the Author of the ſhort view of that King's Life and Reign) hath recorded it, had not means to defray the diet of his Court, but was conſtrained to [i] break up Houſe-keeping, and (as *Mat. Paris* ſaith) with his Queen, *cum Abbatibus & Prioribus ſatis humiliter hoſpitia & prandia quærere*) to ſatisfie the King s neceſſities: but ſo as the reformation of the Grievances, and ratification of their Laws, might be once again ſolemnly confirmed. A Tenth was granted by the Clergy for three years, to be diſtributed by the view of certain Lords; and three Marks Scutage for every Knights Fee to be charged upon the Laity for that year: inſomuch as thoſe often-confirmed Charters were again agreed to be ratified in the moſt ſolemn and religious way that Relion and State could ever deviſe to have it done, [k] after this manner, *viz.* the King, (who in all Excommunications was, with the Lords Temporal, by the Laws and reaſonable Cuſtoms of *England*, to give their aſſent before it could *ſortiri effectum*, or have any validity) with many of the great Nobility of *England*,

[i] Mat. Paris 758, 811, 812. Ro. clauſ. 37, 46 H. 3.

[k] Prynn hiſt. col. of the Pope's Uſurpation in *England*, 107. *Daniel* in the life of K. H. 3.

land, all the Biſhops and chief Prelates in their Reverend Ornaments, with Candles or Tapers in their hands, walking in a direful Proceſſion through *Weſtminſter-hall*, into the Abbey-Church of *Weſtminſter*, there to hear the terrible Sentence of Excommunication pronounced againſt the Infringers of the aforeſaid Charters granted by him. At the lighting of which Candles the King having received one in his hand, gave it to a Prelate that ſtood by him; ſaying, *It becomes not me, being no Prieſt, to hold the Candle, my heart ſhall bear a greater Teſtimony*; and withal laid his hand upon his breaſt the whole time that the Sentence was reading, which was pronounced *autoritate de omni potentis, &c.* Which done, he cauſed the Charter of King *John* his Father, granted by his free conſent, to be likewiſe openly read, and the reſt of the company throwing away their Candles, which lay ſmoaking on the ground; all cried out, *So let them who incur the Sentence, be extinct, and ſtink in Hell*: The King with a loud voice, ſaying, *as God me help, I will, as I am a man, a Chriſtian, a Knight, a King Crowned and Anointed, inviolably obſerve thoſe things*; which Ceremony ended, the Bells rung out, and all the people ſhouted with joy.

But it is not to be forgotten (although *Matthew Paris*, *Samuel Daniel*, and all other Writers but Mr. *William Pryn* make no mention of it) in this aſtoniſhing and dreadful Ceremony, in the like whereof never were Laws (ſaith Mr. *Daniel*) amongſt men (except the Decalogue from *Mount-Sinai*) promulgated, and pronounced with more Majeſty of Ceremony, to make them heeded, reverenced, and reſpected, than were thoſe that wanted Thundring and Lightning from Heaven: accompanied with an Earth-quake ſhaking the very Foundations thereof.

The King did not deſert his own regal Rights, and Preheminencies; but did at the ſame time, when in that dreadful manner, he joyned in the Pronunciation of that Sentence of Excommunication with his own mouth publickly, except out of it all the Ancient and Accuſtomed Liberties of the Realm, and the Dignities and Rights of the Crown; and the ſame day cauſed a Record thereof to be made, yet extant in the *Tower* of *London* in theſe words, *viz.*

1 Ro' pat. 37 H. 3. m. 12. in dorſo.

Noverint Univerſi quòd Dominus Henricus *Rex* Angliæ *Illuſtris* R. Comes Norf. *& Marſhallus* Angliæ, H. Comes Horeford, *&* Eſſex, J. Comes de Warren, Petrus de Sabaudia, *cæteriquè Magnates* Angliæ *conceſſerunt in ſententiam Excommunicationis generaliter latam apud* Weſtmonaſterium *tertio decimo die* Maii *Anno Regni Regis predicti* 37. *in hac forma, ſcilicet, quòd vinculo præfatæ ſententiæ ligentur omnes venientes contrà libertates*

contentas

contentas in chartis communium libertatum Angliæ, *& de foreſta, & omnes qui libertates Eccleſiæ* Angicanæ *temporibus Domini Regis & Prædeceſſorum ſuorum Regum* Angliæ *optentas & uſitatas ſcienter & malitioſè violaverint aut infringere præſumpſerint, & omnes illi qui pacem Domini Regis & Regni perturbaverint & ſimiliter omnes qui jura & libertates Domini Regis & Regni diminuere, infringere, ſeu immutare præſumpſerint & quòd omnes venientes contrà præmiſſa vel eorum aliqua ignoranter & legitimè moniti infra quindenam poſt monitionem præmiſſam dictam tranſgreſſionem non emendaverint ex tunc prædictæ ſententiæ excommunicationis ſubjacebunt ità tamen quod Dominus Rex tranſgreſſionem illam per conſiderationem curiæ ſuæ faciat emendari, ſciendum autem quod ſi in ſcriptis ſuper eadem ſententia à quibuſcunq; confectis ſeu conficiendis aliud vel alitèr appoſitum vel adjectum fuerit aut articuli aliqui alii in eis contenti inveniantur, Dominus Rex & prædicti Magnates omnes & communicatas populi proteſtantur publicè in præſentiâ venerabilium patrum B. Dei Gratiâ* Cantuarienſis *Archiepiſcopi totius* Angliæ *Primatis, nec non & Epiſcoporum omnium in eodem colloquio exiſtentium, quòd in ea nunquam conſenſerunt, nec conſentiunt, ſed de plano eis contradicunt, prætereà præfatus Dominus Rex in prolatione præfat' ſententiæ omnes libertates conſuetudines Regni ſui antiquas & uſitates & Dignitates, & jura Coronæ ſuæ ore proprio ſpecialiter ſibi & Regno ſuo ſalvavit & excepit. In cujus rei memoriam, & in poſterum veritatis teſtimonium, tàm Dominus Rex, quam prædicti Comites, ad inſtantiam aliorum Magnatum & Populi, præſenti ſcripto ſigilla ſua appoſuerunt.*

Gaſcoign, a great Province in *France*, having been, before the King had any Son, granted by him, by the counſel of the Lords, to his Brother *Richard* Earl of *Cornwal*, who was there received as their Lord, and ſo continued, until the King had Iſſue of his own: after which, revoking his Grant, and conferring it upon his Son *Edward*, the Earl, though he were deprived of his Poſſeſſion, not being willing to forgo his Right, the King in great diſpleaſure commanded him to reſign his Charter: which he refuſing to do, the Citizens of *Burdeaux* were commanded to take and impriſon, but would not adventure thereon; Notwithſtanding, money being offered, and like to effect more than his command, the Earl, in danger to be ſurprized, came over into *England*; whereupon the King aſſembled the Nobility of *Gaſcoign*, promiſed them 30000 Marks to renounce their homage and fealty to his Brother; which being not accepted, he ſent *Symon Montfort* Earl of *Leiceſter*, (a rough and martial man) in revenge thereof, to be their Governour under him for ſix years, and furniſhed him with 1000

Marks in order thereto: whom *Montfort*, by a ſtern Government, ſo diſcontented, as they and the Archbiſhop of *Burdeaux* accuſed him of heinous Crimes, which was a cauſe of *Montford*'s ſending for over. And the King, reſolute in maintaining the *Gaſcoigners*, that ſturdy Earl *Montfort*, who had forgotten that he was an Alien himſelf, and had received of the King large Gifts, Preferments, and Honours both in *France* and *England*, (unto whom the Earl of *Cornwal*, with the diſcontented part of the *Engliſh* Baronage, joyning) complained as much of the Aliens, *viz. William* of *Valence*, Earl of *Pembroke*, *Guy de Luſignan*, the King's half-brothers by his Mother, and the many *French* and *Poictovins*, that over-much governed him, and his Counſels, as they did again complain of the breach of the *Great Charter*, which was ſeldom omitted out of the Reer of their grievances; which at laſt came to ſuch an undutiful conteſt, as *Montfort* upbraiding the King with his expenceful ſervice, wherein he alledged he had utterly conſumed his Eſtate, and ſaid that he had broken his word with him: the King in great rage told him, *That no promiſe was to be obſerved with an unworthy Traytor*; wherewith *Montfort* roſe up, and proteſted, *that he lyed in that word*; *and, were he not protected by his Royal Dignity, he would make him repent it.* The King commanded his Servants to lay hold of him, which the *Lords* would not permit; wherewith *Montfort* growing more audacious, the King told him, *He never repented of any thing ſo much, as to have permitted him to enter into his Kingdom, and to have honoured and inſtated him as he had done.*

But ſhortly after, the *Gaſcoigns* being again encouraged by the King againſt *Montfort*, and that Province given to his Son *Edward*, and *Montfort* ſent thither a Governour again, though with clipt wings, grows enflamed as much, as the *Gaſcoigns* were one againſt another; but *Montfort*, by his great Alliance with *France*, overcame them: who in the 38*th.* year of the King's Reign, being diſcharged of the Government, retired from thence, and refuſing an offered entertainment by the *French* King, returned into *England*; where the King, beſides *Gaſcoigny*, having given *Ireland*, *Wales*, *Briſtol*, *Stamford*, and *Grantham* to the Prince, and conſumed all that ever he could get in that and the former expeditions which he had made, which was reckoned to have coſt him *Twenty ſeven hundred thouſand pounds*, which were ſaid to have been more than the Lands endeavoured to have been regained were worth, if they were to be ſold.

A Parliament was called in *Eaſter*-Term following, which brought a return of grievances, and complaints of the breach of

of Charters, and a demand for former pretended rights in electing the *Juſticiar*, *Chancellor*, and *Treaſurer*; whereupon, after much debate to no purpoſe, the Parliament was prorogued until *Michaelmas* next after, when likewiſe the King's motion for money was diſappointed, by reaſon of the abſence of many Peers, being not (as was alledged) ſummoned according to *Magna Charta*. In the mean time the Pope, to deſtroy *Manfred* Son to the Emperour *Frederick*, who was in poſſeſſion of the Kingdom of *Sicily* and *Apulia*, ſent the Biſhop of *Bononia* with a Ring of inveſtiture of the Kindom of *Sicily* to *Edmond* the King's ſecond Son, (with the hopes of which his Prædeceſſor *Innocent* IV. had before deluded the King himſelf.)

And the King being offered to be abſolved from his Oath of undertaking the holy Wars, ſo as he would help to deſtroy *Manfred* the Emperour *Frederick*'s Son, who being Victorious, had no mind to be ſo ill uſed. The Legate returned with great gifts, and a Prebendary of *York*, but could not obtain his deſign of collecting the *Tenths* in *England*, *Scotland*, and *Ireland*, to the uſe of the Pope and the King; for that the Clergy growing jealous, [m] that the King and the Pope were confederate therein, proteſted rather to loſe their Lives and Livings, than to be made a prey to either: the Pope in the mean time having upon that vain hope, cunningly wrapt him in an obligation of 15000 Marks.

Upon complaint of the *Gaſcoigns*, who were under the Government of the Prince, that their Wines were taken away by the King's Officers, without due ſatisfaction; and the Prince thereupon addreſſing himſelf to his Father in their behalf; and the Officers, in excuſe of themſelves, informing the King, that the Prince took upon him to do Juſtice therein, when it belonged not to him: the King was put in a great rage, and ſaid, *Behold, my Son and my Brother are bent to afflict me, as my Grand-father King* Henry *II. was*. And being put to his ſhifts to ſupply his neceſſities, came himſelf into his *Exchequer*, and with his own mouth pronounced and made Orders for the better bringing in of his Revenues, Farms, and Amerciaments, under ſevere penalties, that every Sheriff which appeared not yearly there in the *Octaves* of St. *Michael*, with his money, as well of his Farms and Amerciaments, as other dues, for the firſt day ſhould be amerced *five Marks*, for the ſecond *ten*, for the third *fifteen*, and for the fourth ſhould be redeemed at the King's pleaſure; all Cities and Freedoms to be amerced in the ſame manner, and the fourth day making default, were to loſe their *Freedoms*; the Sheriffs amerced *five Marks* for not diſtrain-

ing upon every man that having 20 *l.* Lands *per annum*, came not to be made Knight, unleſs he had before been freed by the King: And by examinations of meaſures of Ale and Wine, Buſhels and Weights, got ſome ſmall ſums of money; and about the time of *Richard* Earl of *Cornwal* s going to *Germany*, (where he was, by the privity and approbation of the Councel of State in *England*, elected King of the *Romans*) called a Parliament: where bringing his Son *Edmond* clad in an *Apuleian* habit, he ſaid, *Behold my Son* Edmond, *whom God hath called to the dignity of Regal Excellency: how fitting and worthy is he of your favour; and how inhumane were it, in ſo important a neceſſity, to deny him counſel and aid!* and ſhewed them how, by the advice and benignity of the Pope and the Church of *England*, he had, for the obtaining of the Kingdom of *Sicily*, bound himſelf under the penalty or covenant of loſing the Kingdom of *England*, in the ſum of 150000 Marks; and had obtained the Tenth of the Clergy of all their Benefices for three years, according to the new rates, without deduction of expences; beſides their firſt-fruits for three years: whereupon, after many excuſes of poverty, they promiſed, upon the uſual condition of confirmation of *Magna Charta*, to give him 32000 Marks; But that not ſatisfying,

The next year another Parliament was holden at *London*; where he preſſing them again for money to pay his debts, the Lords told him plainly, They would not yield to give him any thing; and if he unadviſedly bought the Kingdom of *Sicily*, and was deceived in it, he was to blame himſelf therein; And repeating their old grievances, the breach of his promiſe, contempt of the power of the Church, and the Charter which he had ſolemnly ſworn to obſerve, with the inſolency of Strangers, (eſpecially of *William de Valence*, who moſt reproachfully had given the lye to the Earl of *Leiceſter*, for which he could not, upon complaint to the King, have right done him) how they abounded in Riches, and himſelf ſo poor, as he could not repreſs an Inſurrection of the *Welſh*: The King thereupon promiſed, by his Oath taken upon the Tomb of St. *Edward*, to reform all his errours. But the Lords, in regard the buſineſs was difficult, got the Parliament to be adjourned to *Oxford*; and in the mean time the Earls of *Glouceſter*, *Hereford*, the Earl *Marſhal*, *Bigod*, *Spencer*, and other great men, confederated and provided by ſtrength to effect their deſires.

The King[n] driven into neceſſities, did, the better to appeaſe thoſe often-complain'd-of grievances, when his own were burthen enough, by his Writs or Commiſſions ſent into every

[n] *Mat. Par. 977. & in additamentis.*

County

County of *England*, appoint *quatuor milites qui considerarent quot & quantis gravaminibus simpliciores à fortioribus opprimuntur & inquirent diligenter de singulis querelis & injuriis à quocunque factis, vel à quibuscunque illatis à multis retroactis temporibus & omnia requisita sub sigillis suis se cum Baronagio ad tempus sibi per breve præfixum certificent*; which by any Record or History do not appear (saith [o] Sir *Henry Spelman*) to have been ever certified.

[o] *Spelmans Gloss.*

And to obtain money, procured the Abbot of *Westminster* to get his Convent to joyn with him as his surety in a Bond for 300 marks; sent *Simon Paslieu*, his trusty Councellor, with Letters to other Monasteries to do the like, but they refused. And the Prince participating in the wants of his Father, was for want of money constrained to mortgage the Towns of *Stanford*, *Benham*, and other Lands, to *William de Valence*. So that upon the aforesaid adjournment, and meeting of the Parliament at *Oxford*, in the 42*d*. year of his Reign, brake out those great discontents which had been so long in gathering; whither the Lords brought with them great numbers of their Tenants by Knights-Service, [p] (which were many) followers, dependants, and adhærents, upon a pretence of aiding the King, and going against the *Welsh*: where, after they had secured the Ports, to prevent Foreign aids, and the Gates of the City of *London*, with their oaths and hands given to each other not to desist until they had obtain their ends, began to expostulate their former Liberties, and require the performance according to the Oaths and Orders formerly made; the *Chief-Justiciar*, *Chancellor* and *Treasurer* to be ordained by publick choice; the twenty four Conservators of the Kingdom to be confirmed, twelve by the election of the Lords, and twelve by the King, with whatsoever else might be advantageous for their own security; Whereupon the King, seeing their strength, and in what manner they required those things, did swear again solemnly to the confirmation of them, and caused the Prince to take the same Oath. Of which [q] Treasonable Contrivances, *Matthew* of *Westminster*, (an ancient *English* Historian of good credit) hath recorded his opinion in these words: *Hæc de provisionibus imò de proditionibus* Oxon' *dicta sufficiant*. And here yet they would not rest, the King's Brethren, the *Poictovins*, and all other strangers, were to be presently removed, the Kingdom cleared of them, and all the Peers of the Land sworn to see it done. The Earl of *Cornwal's* eldest Son refusing to take the Oath without leave of his Father, was plainly told, That if his Father would not consent with the Baronage in that Case, he should not hold

[p] *Mat. Paris.*

[q] *Mat. Westminster.*

a Furrow of Land in *England*. In the end, the King's Brethren and their followers were deſpoiled of all their fortunes, and baniſhed by order under his own hand, with a charge not to paſs with any Money, Arms or Ornaments, other than ſuch as the Earls of *Hereford* and *Surrey* ſhould allow and appoint; with an injunction to the City of *Briſtol*, or any other Ports, not to permit any ſtrangers, or Kinſmen of his, to come into *England*, but ſuch only as the King and the Lords ſhould like.

The *Poictovins* landing at *Boloign*, had much-a-do to gain paſſage into their own Countreys, by reaſon that *Henry de Montfort*, Son to the Earl of *Leiceſter*, whoſe power was very great in *France*, had followed them thither. Rumours were ſpread amongſt the people in *England*, that the Earl of *Glouceſter* was attempted to have been poyſon'd; and one of his Servants executed, upon no other proof but preſumption; and every one that would complain of the *Poictovins*, wanted no encouragement.

Richard Gray, whom the Lords had made Captain of the Caſtle of *Dover*, intercepted as much as he could of what the *Poictovins* carried over, and enriched himſelf thereby. The new Chief-Juſtice *Hugh Bigod*, Brother to the Earl *Marſhal*, being choſen in the laſt Parliament by publick voice, procured an order, that four Knights in every Shire ſhould enquire of the poor oppreſſed by great men, and certifie the ſame to the Baronage under their hands and ſeals; which were never found to have been certified; And made an Order, that no man ſhould give any thing (beſides Proviſions) for Juſtice, or to hinder the ſame; and that both the corrupter and corrupted ſhould be grievouſly puniſhed.

Notwithſtanding which pretended care, the Lords enforceing the ſervice of the King's Tenants which dwelt near unto them, were as *totidem Tyranni*, furniſhed the eſpecial Fortreſſes of the Kingdom with Garriſons of their own, ſworn to the common State; and took the like aſſurance of all Sheriffs, Bailiffs, Coroners, and other publick Miniſters, with ſtrict Commiſſions upon Oath to examine their behaviour.

And to make the King and his actions the more odious, and their own more popular, it was rumoured, that the King's neceſſities muſt be repaired out of the Eſtates of his people; and he muſt not want, whilſt they had it.

Whereupon the King, to defend himſelf from ſuch ſcandals, was conſtrained to publiſh his Declaration, *to deſire the people to give no credit to ſuch falſe ſuggeſtions; for that he was ready to defend all Rights and Cuſtoms due unto them.* How-

Howſoever, *Montfort*, *Glouceſter* and *Spencer*, who had by the late conſtitution of the twenty-four Conſervators drawn the entire managing of the Kingdom into their hands, enforced the King to call a Parliament at *London*, where the authority of the twenty-four Conſervators was placed in themſelves, and order taken that three at the leaſt ſhould attend at the Court, to diſpoſe of the cuſtody of Caſtles, and other buſineſs of the Kingdom, of the Chancellor, Chief-Juſticiar, Treaſurer, and all other Officers great and ſmall, and bound the King [r] *to releaſe to them their legal Obedience, whenſoever he infringed his Charter.*

r Daniel 177.

In the mean time, the Earl of *Cornwal*, King of the *Romans*, being diſpoſſeſt of that Kingdom, or not well liking it, returning into *England*, the Barons ſend to know the cauſe of his coming, and require of him an Oath before he ſhould land, not to prejudice their late eſtabliſhed Orders of the Kingdom; which he ſternly refuſed, ſaying, *He had no Peer in* England, *being the Son and Brother of a King, and was above their power; and if they would have reformed the Kingdom, they ought firſt to have ſent for him, and not ſo preſumptuouſly have attempted a buſineſs of ſo high a nature.* The Lords, upon return of ſuch an anſwer, ſent to guard the Ports, came ſtrongly to the Coaſt, prepared to encounter him, and the [f] King, Queen, and their Son *Edmond*, in a more loving manner go to *Dover* to receive him; but neither they nor the Earl of *Cornwal* were by them permitted to enter into the Caſtle, for that it was the chief Fortreſs of the Kingdom. But finding the Earl of *Cornwal*'s Train ſmall, they ſuffered him to land; and did, upon his promiſe to take the propounded Oath, bring him and the King into the Chapter-houſe at *Canterbury*: where the Earl of *Glouceſter* ſtanding forth in the midſt, in the preſence of the King, called forth the Earl, not by the name of *King*, but *Earl of Cornwal*; who in reverend manner coming forth, took his Oath, That he would be faithful and diligent with the Barons to reform the Kingdom, by the counſel of wicked perſons over-much diſordered; and to be an effectual Coadjutor to expel Rebels, and diſturbers of the ſame, under pain of loſing all the Lands which he held in *England*. After which, both parties ſtrengthening themſelves all they could, the King for the aſſurance of the King of *France*, *ex præcepto & conſilio Domini Regis* Angliæ, *& totius Baronagii*, ſent the Earls of [t] *Glouceſter Leiceſter*, *Peter de Subaudia*, *John Manſel*, and *Robert Walerand*, to the Parliament of *Paris*, *de arduis negotiis Regna* Angliæ *&* Franciæ *contingentibus*, carrying with them a reſignation of the Dutchy of *Normandy*, and the Earl-

f Mat Paris 983.

t Mat. Paris 986. Daniel 178.

Earldoms of *Anjou*, *Poicteau*, *Turaine*, and *Mayne*, for which the King of *France* was to give him three hundred thouſand pounds, with a grant of all *Guyen* beyond the River of *Garonna*, all the River of *Xantoigne* to the River of *Charente*, and the Counties of *Limoſin* and *Quercy*, to him and his Succeſſors, dong his Homage and Fealty to the Crown of *France*, as a Duke of *Aquitain*, and a Peer of that Kingdom.

After whoſe return, *Montfort*, as he had incenſed others, ſo had he thoſe that animated him againſt the King; as, *Walter* Biſhop of *Worceſter*, and *Robert* Biſhop of *Lincoln*, who enjoyned him upon the remiſſion of his ſins, to proſecute the cauſe unto death; affirming, that the peace of the Church of *England* would never be eſtabliſhed, but by the Sword.

But the people being oppreſſed and tired at length with thoſe commotions, part-takings and diſcords, which, by the proviſions wreſted from the King at *Oxford*, and ſo many miſchiefs and inconveniencies, had haraſſed, and almoſt ruined them, and did help to increaſe rather than decreaſe thoſe troubles and controverſies which afflicted the Nation: it having never been eaſie to bring thoſe that were to be governed, to rule with any modeſty or moderation thoſe that had enjoyed a governing power in authority, eſtabliſhed and appointed by God, in a well-temper'd Monarchy, and ſucceſſion for many Ages; or thoſe that were to govern, to obey the giddy and unjuſt dictates of thoſe who were to obey them; or to unite in any contenting harmony the various ambitions, envies, revenges, hatreds, partialities, ſelf-intereſts, and deſigns of many, or a multitude; or ſuch enforcements and contrivances to be laſting, durable, or pleaſing; and that all could not well rule, or agree how to do it.

[u] The King and Queen keeping their *Chriſtmas* in the *Tower* of *London*, *cum ſuis conſiliariis*, (ſaith *Matthew Paris*) *elaboratum fuit tam à Regni* Angliæ *pontificibus quam à Regni* Franciæ, *ut pax reformaretur inter Regem* Angliæ *& Barones, ventumq; eſt ad illud, ut Rex & Proceres ſe ſubmiſerunt ordinationi Regis* Franciæ, *in præmiſſis proviſionibus* Oxoniæ, *nec non pro deprædationibus & damnis utrobique illatis*, who had been ſo good a friend to the rebellious Barons, and ſo great a favourer of them, as after his expulſion out of *England*, whither they had invited him, to aid and aſſiſt them againſt K. *John*, and an agreement made with K. *Henry* III. his Son, to reſtore unto him the Dutchy of *Normandy*, and the other Provinces which he had from him in *France*, as he denied to re-deliver them, until the Liberties claimed by the *Engliſh* Barons, his *old Friends*, ſhould be confirmed unto them:

[u] M. Paris 992

them: by whoſe Quarrels with their Sovereigns, he had gained many great advantages, to the wrong and damage of the Crown of *England*.

And was all the while a very great enemy both to the King and his Father, who notwithſtanding was with the Prince his Son. *Richard* Earl of *Cornwal*, King of the *Romans*, with others of the Loyal Nobility of the Kings part; and the contending Rebellious Lords of the other ſide, by mutual Oaths, *tactis ſacroſanctis Evangeliis*, in the 47*th*. year of his Reign, did undertake to perform and abide by his award, ſo as it were made and pronounced betwixt that and the Feaſt of *Pentecoſt* then next enſuing: unto which none of the Commons of *England* do appear to have been parties. Whereupon the [w] King of *France* taking upon him the ſaid arbitration, *congregato in craſtino ſancti* Vincentii Ambiomis *populo penè innumerabili coram Epiſcopis, & Comitibus, aliiſq;* Francorum *proceribus ſolemniter dedit ſententiam pro Rege* Angliæ *contra Barones Statutis* Oxoniæ, *proviſionibus, ordinationibus, ac obligationibus penitus annullatis, hoc excepto quod antiquas Chartas Regis* Johannis Angliæ *univerſitati conceſſas per illam ſententiam in nullo intendebat penitùs derogare.*

[w] Mat. Paris 992.

And made his award accordingly in writing: an exemplification or [x] authentick Copy whereof is yet to be ſeen amongſt the Records in His now Majeſty's Treaſury at *Weſtminſter*.

[x] Inter Recor' in recept' ſcienti apud *Camerar.*

Quæ quidem exceptio Comitem Leiceſtriæ, *& cæteros qui habebunt ſenſus exercitatos* (ſaith *Matthew Paris*) *compulit in præpoſito tenere firmitèr Statuta* Oxoniæ *que fundata fuerant ſuper illam Chartam.*

Et eo tempore redierint à Francia *qui Parliamento, Regis* Francia *interfuerant, Rex, videlicet,* Angliæ Henricus, *& Regina* Eleanora, *Archiepiſcopus* Cantuarienſis Bonifacius, Petrus Herefordenſis *Epiſcopus, &* Johannes Manſel; *qui Baronibus,* (ſaith that Monk of St. *Albans*) *mala quanta potuerunt, non ceſſabant machinari.*

Which exception could neither abſolve them from their Oaths ſo ſolemnly taken to perform the award which the King of *France* had made, or purge them from their former and after Rebellions againſt King *Henry* III. or their ill uſage of him.

SECT. VI.

That the Exceptions mentioned in the King of France's *award of the Charter granted by King* John, *could not invalidate the whole award, or juſtifie the proviſions made at* Oxford, *which was the principal matter referred unto him.*

For that the contrivance of the twenty-four Conſervators, and what elſe was [y] added thereunto by the aforeſaid Proviſions and conſtrained Ordinances made at *Oxford*, was never any part of the *Magna Charta*, or the *Charta de Foreſta*, enforced from King *John*, but a ſecurity ſeperate and collateral thereunto, framed and deviſed at the ſame time, for the better obſervation and performance of thoſe Charters, which the preamble of that ſecurity, (of which *Matthew Paris* hath at large left unto poſterity an exemplar) may abundantly evidence, in the words following, (*viz.*) *Cum autem pro Deo & ad emendationem Regni noſtri & ad melius ſopiendam diſcordiam, inter nos & Barones noſtros, hæc omnia conceſſimus volentes ea integra & firma ſtabilitate gaudere facimus & concedimus eis ſecuritatem ſubſcriptam, viz. quod Barones eligant viginti quinque Barones de Regno noſtros quos voluerint, &c.* and doth greatly differ, both in the material and formal parts thereof, from the proviſions afterwards enforced at *Oxford*, as by a juſt collation and compariſon of that collateral ſecurity with thoſe proviſions, may appear: where care is taken but for twenty-four Conſervators, twelve to be choſen by the King, and twelve by thoſe factious Lords, who would likewiſe engroſs to themſelves and their party the nomination of the *Chancellor*, *Treaſurer*, two *Chief-Juſtices*, two of the Juſtices of both the Benches, and Barons of the *Exchequer*, and have the making of the Chief-Juſtice of the *Jews*; to which the King and his Son the Prince were ſworn; but to the *Running-Mead* unkingly ſhackles or ſecurity, the King and thoſe maſterly Barons were only ſworn, and that not thought ſufficient, without ſome principal Caſtles of the Kings were to be put into hands of thoſe Conſervators; and that upon complaint made to the King or his Chief-Juſtice, if reformation were not made within a time limited; the Conſervators and the common people were to diſtrain, *& gravere eum*, (which would amount to a licenſed Rebellion) with a *ſalvis perſonis* only of the King and his Queen and Children; all the great men of the Kingdom, and the common people, and as many as would, being alſo to take their Oaths to be aiding and aſſiſting to thoſe Conſervators, (in a kind or much reſembling the late

[y] Mat. Paris 261.

late ASSOCIATION) who were themſelves to take their Oaths well and truly to execute their multiplied *Kingſhips*, and clip, as much as they could, the more juſt Authority and Rights of their Sovereign: But in thoſe of *Oxford* there was ſo much kindneſs ſhewed to themſelves, and care taken of their own tender conſciences, as not to be ſworn at all, and muſt needs be an excellent contrivance for the inviſible good of the Kingdom, and a rare performance of their Homage, Fealty, and Oaths of Allegiance, to take the power and authority from a King, which ſhould enable him to perform his *Magna Charta*, and *Charta de Foreſta*, freely granted unto them, and put it into their own hands to break thoſe Charters and his Oaths, and to protect and do Juſtice unto his people, as oft as their malice, ambitious envies, avarice, revenge, intereſts, deſigns, corruptions, or domineering paſſions of themſelves and their Wives, (being not a few in number) and their numerous adhærents, ſhould incite or perſuade them unto; and were ſo confident of their over-ruling party, no proviſion being at all made in thoſe which were made at *Oxford*, if any diſcords ſhould ariſe in the election of the one twelve, or the other; or in the continuance of their agreements together, ſhares, or parts in the Government of their King and fellow-Subjects, as believing that the power of the twelve Barons choſen by themſelves, would be either prædominant over the twelve which were to be named by the King, or their newly-uſurped authority would be ſo complaiſant and well-pleaſing unto all the twenty-four, as flattery, fear or intereſt would ſo quiet any (to be ſuppoſed) diſcords, as they ſhould not need to fall out at a Feaſt, or divide, diſturb, or deſtroy themſelves by Factions: the ſecurity given at *Running-Mead* ordaining only twenty-five Conſervators, without any election of a part or moity of them by the King, and to be upon occaſion of any breach or offence done by the King or his *Juſticiar*, *ergà aliquem in aliquo, vel aliquem articulorum pacis vel ſecuritatis*, (which clearly divides the ſecurity or Conſervatorſhips, from the Articles of Peace and Charters compelled at *Running-Mead*, as far aſunder as a disjunctive, or matters of another nature, ſenſe, or purpoſe could effect) reduced to four, and that which was referred to the King of *France*, neither King *John*'s Charter, nor the collateral enforced ſecurity, by the power of a Rebellious and unruly Army, when he had but ſeven Knights to ſtand by him, and was over-aw'd by a Clergy claiming to be independant of him, and out of the power and coertion of his Laws; had the Pope's Legate at their elbow, and his afrighting pretence of God-like Omnipotency,

with their threatning to excommunicate him and his Councellors, and all that should adhere unto him; And, as if that had not been enough, practising and plotting with a discontented powerful party of the Barons against him: But singly and seperately, that which was the present Controversie, *& cardo quæstionis*, were the provisions made at *Oxford*, where *per mensem integrum persistebant consilius & armis*; of which, and the [z] reference to the *French* King thereupon, *Henry Knighton* (an Author much enclin'd to the contending part of the Baronage) gives us an account in these words: *Publicatis Statutis & executioni demandatis, displicuerunt multa Regi & pœnituit eum sic jurâsse sed quia resistere non potuit, ex arrupto dissimulavit ad tempus, cùmq; elapso anno non videret se ut promiserant à debitis relevari*, (which *Henry Knighton* affirmeth they promised) *sed magis Onerari, in multum condoluit, & missis ad Papam Nuntiis quoad sacramentum præstitum absolutionis beneficium consecutus est, & quoad se & suos omnes absolvit etiam Papa indifferenter omnes ab eodem juramento, ut citiùs inter se in vinculo pacis unirent, statimq; absolutione optenià resilivit Rex à præmissis, & convocato Parliamento suo* Oxoniæ *quæstionem movit magnatibus suis, se quantùm ad provisiones tenendas callidè quidem inductum & seductum, in super quod ad sacramentum præstitum, & pro se & suis universalitèr omnibus absolutionis benificium generalitèr impetrâsse unde petiit se ad omnia restituti, sicut antiquitùs esse consuevit.*

[z] Hen. Knight. *de eventibus* Anglia.

At illi qui convenerant Comes, scilicet, Leicestrensis Symon *de* Montforti, *Comes* Glouceſtriæ Gilbertus *de* Clara, Humfridus *de* Boun *juvenis*, *Comes* Ferarensis; *Barones etiam quam plurimi, scilicet, Dominus filius* Johannis, *Dominus* Henricus *de* Hastinges, *Dominus* Galfridus *de* Lucy, Johannes *de* Vescy *juvenis*, *Dominus* Nicholaus *de* Segrave, Hugo *le* Spencer, & Robertus *de* Vesponte, (no Commons) *pro se siquidem & suis sequacibus unanimitèr respenderunt quòd provisiones ad quas juramento astricti fuerant usque in finem vitæ tenere voluerunt eò quòd prò utilitate Regis, & Regni communiter editæ fuerant & confirmatæ.*

[a] Hen. Knight. *l. 2. inter histor. antiq. scriptur.* Anglic. 245, & 246.

Dumq; vota [a] *sua sic mutassent in varia impacata recedere voluissent, quidam Episcopi aderant qui interposuerunt partes suas ità quòd ipsis & aliis amicis communibus sic cum difficultate mediantibus compromiserunt partes utrimq; se velle stare in omnibus arbitrio Regis* Franciæ.

Qui quidem Rix auditis hinc inde propositis & diligenter ponderatis decrevit in fine Regi Angliæ *exhæreditationem fieri manifestam, unde Statuta eorum quasi omnia reprobavit, & eidem Regi statum pristinum restitui, imponens aliis silentium quantum ad jura Regalia ordinanda.*

Motiq;

Motiq; Magnates & indignantes neceſſerunt ſtare nolentes ejus arbitrio, eò quòd pro Rege omnia Rex ipſe adjudicavit.

Wherein the Charters of King *John*, either as to the *Foreſts*, or concerning the other Lands, Liberties and Eſtates of the Biſhops, Abbots, Priors, Earls, Barons and Free-men of *England*, or any the controverſies raiſed thereupon, do not appear to be any part of the matters referred to the King of *France*'s arbitration, neither are in his award thereupon mentioned, in the tranſcript thereof, remaining amongſt His Majeſty's Records, or declared by *Matthew Paris*, or *Henry Knighton*) to be any parcel of the controverſies referred unto him, or inducing the ſame; for the Charter of King *John*, therein by *Matthew Paris* ſaid to be excepted, is in the ſingular number, and diſtinguiſhable from that of the Foreſts, and cannot howſoever, in any probability, be intended to be the aforeſaid collateral over-binding ſecurity, nor could that be comprehended under that notion; for the Charters granted by King *John* have nothing therein of the after-proviſions made at *Oxford*, which were not in his ſaid Charters mentioned, nor can be accounted the ſame, when they were not then exiſtent, but were framed, hatched and brought forth forty-three years after the Charters gain'd at *Running Mead*, which were not the ſame with that ſeperate and collateral bond, or unfitting ſecurity, wherein the King, beſides thoſe Charters, did covenant to expell all aliens and ſtrangers out of the Kingdom, *& omnes ruptarios*, breakers of the peace thereof, (ſome of which were therein particularly named) *qui ſunt ad nocumentum Regni*, granted a general pardon *omnibus Clericis & Laicis*, of all offences committed by reaſon of the ſaid troubles and diſcords from *Eaſter* before, (which was in the 16*th*. year of his Reign) to the making of that pacification; and moreover, gave unto them the Letters Teſtimonials and Patents of the Archbiſhops of *Canterbury* and *Dublin*, *Pandulphus* the Pope's Legate, and other Biſhops, *ſuper ſecuritate iſta conceſſionibus prædictis*, the Charters being only a grant of the King's to to the Biſhops, Earls and Barons, and the reſt of the Freemen and Subjects of *England*, not as if they were before free and exempt from the juſt Monarchical and Regal Government, but contra-diſtinguiſhed from Bond-men and Bond-women, Copy-holders, Servants, *&c.*) which needed no Oaths from the Grantees, or thoſe which might be glad to receive the Benefits and Liberties granted thereby.

For the contrivance of that fatal and too-long-laſting Seminary of Sedition and Diſcord betwixt the King and thoſe Barons, and

and that unfitting ſecurity to pacifie their unbecoming jealouſies, being no part of the Charters granted by King *John*, were but as covenants and promiſes extorted from an over affrighted and diſtreſſed Prince, and were not the ſame upon which the proviſions of *Oxford* were founded, nor incorporate in them.

So that the proviſions made at *Oxford* muſt needs be thoſe, and none other, which the King of *France* and his Parliament and great Council, upon ſo grand and deliberate a hearing, declared to be null and void, as derogatory to Kingly Government, and amounting to a total diſ-heriſon of the King therein; and if they were not thoſe proviſions, the maintainers of any ſuch opinion are to ſhew what other proviſions made at *Oxford* in the Reign of King *Henry* III. were referred unto him, or condemned by him.

It being not to be underſtood by any, that will not make their ignorance, ſelf-conceitedneſs, deſigns and evil purpoſes to be the rules of their reaſon, that the exception of King *John*'s Charter was to be extended to the collateral ſecurity, and when they have ſweat and laboured at it beyond any the rules of Reaſon and Learning, will never be able to entice or draw any religious, good, wiſe or learned men to ſubſcribe to ſuch a paradox, *That twenty-five* Conſervatorſhips *ſhould be intended or underſtood to be only* Twenty-four, *and thoſe ſubcommitted to* Four; *that the King's putting into his rebellious Barons hands four of the ſtrongeſt Caſtles which he had, as pledges and ſecurity, with power for all that would to take Oaths, to diſtrain and take arms, and ſet the common people upon him: were, or are within the true meaning or conſtruction of that* Magna Charta; *or that it was ever within the meaning, intention, or words of that* Magna Charta, *granted by him unto his Subjects, to be holden of him and his heirs* in capite, *that the word or notion of* Liberties *mentioned therein, ſhould or could beget a Law, Rule, or Cuſtom, that thoſe that were the Grantees, and to be governed, ſhould rule their Governours, (which no where appeareth to be conſonant to that Reaſon, Juſtice and Order which God Himſelf præſcribed, and gave as a rule for the better ordering of the Sons of men and all their Generation;) or that the granter of thoſe Liberties in thoſe Charters, did thereby ever intend, or ſo expreſs, or underſtand, that by the grant of thoſe Liberties and Benefits, the Subjects of* England *were entituled to a Right or Authority to govern their King; and if he do not therein behave himſelf according to the Intereſts or Votes of a giddy multitude, (who are as ſeldom to be pleaſed, as they are to be brought into one and the ſame opinion, humour, intereſt, or deſign) ſhould be veſted with a power or authority to compel him.*

When

When no Hiſtories, Annals, or Records of the Nation, or Writer new or old, (except ſuch as had been fooled and infatuated by *Jeſuitical* Principles, fitted and dreſs'd up for ſome wickedly ſilly *Presbyters* and *Fanaticks*, in the time of that popular Frenzy in *England*, betwixt the years 1640 and 1661, and drank deep of that *Circæan* Cup, and intoxicated themſelves with the ungodly gains of Rebellion againſt their Sovereign, by Murder, Plunder, and Sequeſtration of Him, and their more loyal and honeſt fellow-Subjects) can tell us any News of ſuch Rights and Liberties, or inform us where any ſuch were granted, duly regiſtred or authenticated, other than in or by the Records or Memorials of *Wat Tyler*, *Jack Cade*, *Ket*, and their Rabble-rout.

Nor was it probable that ſo great a Council of wiſe or learned men ſhould in the penning or wording the King of *France*'s aforeſaid decree or award, in or with the exception of King *John*'s Charter, ſo much err, if they had underſtood that it had made void the whole award, or that the Pope would have confirmed a nothing, or ſuch an award as ſhould ſignifie no more; or that the oppoſite Barons would have taken it ſo ill, or believed that it had been ſo much againſt them, as *Henry Knighton* related it, *That the King of* France *had awarded all for the King*, if they had not underſtood the aforeſaid proviſions made at *Oxford* to have been, *ipſo facto*, null and void; neither can it by any men of Law, Reaſon or Learning be adjudged, that that award could be as to the whole a nullity, by reaſon of that exception, when the civil or *Cæſarean* Law, that excellent method of univerſal reaſon, by which the greateſt part of the world was then, before, and ever ſince contented to be guided, hath taught us, that [b] *exceptii eſt quædam excluſio quæ interponi actioni cujuſq; rei ſolet ad excludendum id quod in intentionem, condemnationem vè deductum eſt*; For, [c] *excipere propriè eſt detrahere, & exceptio eſt quæ partem aliquam de univerſo Actoris jure detrahat*; And theſe Laws have declared, that *exceptio obſcura nihil eſt momenti*; *& obſcurè excipere, eſt nihil excipere*; And our *Engliſh* Laws and reaſonable Cuſtoms have allowed us to ſay and believe, that *exceptio firmat regulam in caſibus non exceptis*, that a matter or thing not excepted, is the more ſtrengthened and confirmed, by what is excepted and ſevered from it.

[b] l. 2. ff. de except.

[c] l. 1. labeo ſcribit ff. de fluminibus. l. Tiriæ text' pr'ff. de legat' Bart' in lib. 1. ff. de except'. l. de ætat' nihil intereſt ff. de interrog'.

But it ſeems, ſaith Mr. *Pryn*, that that award of the King of *France* was not full and ſatisfactory to all parties, (although the King's permiſſion thereupon afterwards made, chargeth the diſſatisfaction on the Barons part) whom to content as well as he could, he and the Barons, by mutual conſent, did by their

Letters

Letters Patents, ſubmit (as he ſaid) that award to *H.* Biſhop of *London*, *H. le Deſpencer*, Juſticiar of *England*, *Bartholomew* Earl of *Anjou*, Couſin-jerman to the King of *France*, and the Abbot of *Beck*, to amend or correct, by way of addition or detraction (in or to the ſaid award) whatever they ſhould judge meet for the ſettling and ſecuring of Peace.

And the King was ſo great a lover of Peace, and well-wiſher of the good of his people, as after he had granted unto them more Liberties than they could claim, and in modeſty could ask of a Sovereign that would preſerve that Superiority, and thoſe Rights which God had given Him, for His own and the Peoples good, which can never be, without an *Obedience of Subjects*, and a *care of a Prince to protect them*, by doing Juſtice to Himſelf as well as to Them; and was ſo willing to give them ſatisfaction in any thing juſt or reaſonable to be deſired, as he was content to wave and lay aſide the advantage which he fairly gained by the aforeſaid award or ordinance of the King of *France*, in defence and maintenance of his own juſt Rights, and therein of his means to govern and protect them, (which no Prince in *Chriſtendom* at that time would have done) and at the ſame time adventure the cenſure or ill will of a neighbour Potent Prince, that would not take it kindly to have an award made with ſo much Juſtice, Judgment, and care, to be reviewed by a part of his People, and ſuch as were no friends to the Rights of Kings, and had been long in oppoſition to their King, and encouraged a long and laſting Rebellion againſt him, and by ſuch a new reference or review, ſubjecting himſelf to the Excommunication and Eccleſiaſtical Cenſures of the Pope's Legate, by which He and his Kingdom had already ſo greatly ſuffered.

Yet, in that ſo great a Storm and Tempeſt of State would not ſo much injure Himſelf, his Dignity, and occaſional or neceſſary emergent affairs of Government, as not to provide that they ſhould not ſo much as ſpeak, treat, or ordain any thing, *circa emendationem ordinationis, ſeu pacis prædictæ per quod Regnum* Angliæ, *per alios quàm indigenas gubernetur, nec caſtrorum cuſtodia, ſeu alia balliva Regno prædicto aliis quàm indigenis fidelibus non ſuſpectis committetur*, (which with a clauſe next following, might alſo probably be inſerted to pleaſe the Earl of *Leiceſter*, and to ſecure him from after or former objections, *that he was himſelf an Alien*, or that ſuch allegations might not be any hinderance to him or *William de Valence* to have the cuſtody of any of the King's Caſtles, who had yet

ſome

ſome Provinces in *France*, and was not without Subjects that (as to *England*) were Aliens, as the enſuing Commiſſion, or Letters Patents in order thereunto, will demonſtrate.

Rex Angliæ, [d] S. *de* Monteforti *Comes* Leiceſtr', Gilbertus *de* Clare *Comes* Glouceſtr' *&* Hereford', Johannes *filius* Johannis, Johannes *de* Burgo *ſenior*, Willielmus *de* Monte Caniſio. Henricus *de* Haſtings, Gilbertus *de* Gaunt, *& cæteri Barones & Magnates* Angliæ, (no COMMONS) *univerſis Chriſti fidelibus ad quos præſentes literæ pervenerint, ſalutem in Domino; cum ſuper præteritis guerrarum diſcriminibus in Regno* Angliæ *ſubortis, quædam ordinatio ſeu forma pacis de noſtro Prælatorum, & totius communitatis Regni prædicti, unanimi voluntate & aſſenſu provida deliberatione inita fuerit, quam nuper Domino Regi* Franciæ *fecimus præſentari, & quam Deo gratam, nobis & Regno noſtro credimus opportunam, ac quidam ut intelleximus facti veritatem minus plene intelligentes, ordinationem ipſam ſeu pacis formam minus ſufficientem aſſerentes, de quibuſdam articulis in eadem inſertis non fuerint contenti. Nos ad pacem & tranquilitatem Regni prædicti totis viribus, ſicut tenemur, laborare volentes ut juſtitia noſtra & facti veritas patefaceat & ſingulis plenius innoteſcat, plenam damus poteſtatem venerabili Patri* H. London' *Epiſcopo, & Nobili viro* Hugoni *le* Deſpencer *Juſtic'* Angliæ, *& Nobilibus viris* Bartho' *Com'* Audeg' *prædicti Regis* Franc' *germano, & Abbati de* Beccon, *inſpiciendi & examinandi formam ordinationis ſeu pacis prædictæ addendi & detrahendi eidem, & emendandi, ſi quid addendum, detrahendum, ſeu corrigendum viderint, & providendi omnem ſecuritatem quam viderint opportunam, & ea omnia quæ ordinanda ſeu ſtatuenda duxerint, firmiter obſervandi. Nos autem omnia & ſingula quæ ipſi ad emendationem & obſervationem pacis ejuſdem ordinaverint, rata habebimus, & accepta ſubjiciendo nos juriſdictioni & coertioni venerabilis Patris* G. Sabin' *Epiſcopi Apoſtolicæ ſedis Legati; ut ipſe per ſententiam excommunicationis, & omne genus cenſuræ Eccleſiaſticæ, nos & omnes & ſingulos compellere poſſit, ſi fortè ordinationem prædictorum in aliquo præſumpſerimus contrahere, & ſi prædictus Com'* Audeg' *præſens non fuerit, vel negotium iſtud in ſe aſſumere noluerit, volumus quod Dominus de* Neele, *vel Dominus* Petrus *de* Camberleng', *loco ejuſdem Com' ſubrogetur; quod ſi prædicti quatuor in aliquo articulo pacis prædictæ diſcordes fuerint, judicio majoris partis eorundem ſtetur, & ſi Pares in diſcordia fuerint, volumus ut venerabilis pater Archiepiſcopus* Rothomag' *eis aſſocietur, & quod à majori parte eorundem quinque concorditer fuerit ordinatum, firmiter obſervetur. Nolumus autem quod aliquid liceat eis dicere, ordinare, ſeu ſtatuere circa emendationem ordinationis ſeu pacis prædictæ, per quod Regnum*

[d] Par. 48. H. 3. m. 4. dorſ. cl.

Angliæ, *per alios quam per indigenas gubernetur, nec caſtrorum cuſtodia, ſeu alia balliva in Regno prædicto aliis quam indigenis fidelibus non ſuſpectis committetur : volumus etiam modis omnibus quod pax inter nos Regem* Angliæ *& præfatum Com'* Leiceſtr' *ſuper perſonalibus & ſpecialibus querelis, queſtionibus, & contentionibus quas contra eundem Comitem habemus, & ipſe adverſus nos, & de quibus poſuimus nos in prædictum Regem* Franc' *fiat & aſſecuretur antequam pax ſeu ordinatio prædicta finaliter compleatur. In cujus rei teſtimonium huic ſcripto nos Rex* Angliæ, *Com'* Leiceſtr' *&* Glouceſtr', Jo. Johannes, Willielmus, Henr' *&* Egidius, *pro nobis & cæteris Baronibus, & communitate Regni* Angliæ, *ſigilla noſtra appoſuimus. Dat' apud* Cantuar' *die* Jovis *prox' poſt feſtum Nativ' beatæ Virginis, an' Dom'* 1263.

[e] *Pryn's* 2 tome of the Hiſtory of King *John*, and *Henry* 3.

In aſſiſtance whereof, ſaith [e] Mr. *Pryn*, the King and the Barons having by common conſent entred into Articles of agreement under their hands, concerning the reformation of the Realm of *England*, and referred themſelves therein to the determination of the King of *France* and the Pope's Legate, he did conſtitnte three Procurators, to conclude and conſent on his behalf to whatſoever ſhould be therein agreed, with ſubmiſſion to the Legate's Eccleſiaſtical Cenſures and Excommunications, to compel him to the performance thereof, in theſe words following, (*viz.*)

[f] *Pat.* 48 *H.* 3. *m.* 13. juxtus.

[f] *Rex* Angliæ, *omnibus ad quos, &c. ſalutem, Noverint univerſitas veſtra, quod nos ordinamus & conſtituimus venerabiles Patres* W. Wygorn' *&* J. Winton' *Epiſcopos, & Nobilem virum* Petrum *de* Monteforti, *Procuratores & Nuntios noſtros ſolempnes, dantes eis poteſtatem tractandi in præſentiâ magnifici principis Domini* L. *Dei gratiâ Regis* Franc' *illuſtris, & venerabilis Patris* G. Sabin' *Epiſcopi Apoſtolicæ Legati, vel alterius eorum, ſuper reformatione ſtatus Regni* Angliæ, *& quod in hâc parte proviſum fuerit acceptandi, & firmandi, ſeu etiam compromittendi ſuper hoc in certas perſonas ſi viderint expedire, ac omnem ſecuritatem faciendi quam negotii qualitas requirit, & quam nobis ſeu Regno prædicto viderint optimum dantes in ſuper præfato* Petro *poteſtatem jurandi in animam noſtram, quòd nos quicquid ipſi tres in præmiſſis nomine noſtro duxerint faciendum, ratum habebimus & acceptum, ſubjiciendo nos juriſdictioni & coertioni prædicti Legati, ut ipſe per ſententiam excommunicationis, & omne genus cenſuræ Eccleſiaſticæ nos compellere poſſit, ad obſervationem præmiſſorum. In cujus, &c. Dat' apud* Cantuar' *die* Jovis *prædicta, anno prædicto.*

Wherein it is to be obſerved, that that was but (upon the matter) a re-referrence to the King of *France*, the change being only in the aſſiſtant Councel, the moſt part whereof were

French

French under his obeyſance; and it was to be but as an emendation, correction, or altering of ſome part, not all of the award, which was made before, which was not by this latter referrence found or declared to be void, or ſo much as contradicted, in any of the particulars of the proviſions made at *Oxford* adjudged againſt the Barons, or any thing to be defective or redundant; nor was there any addition, correction, or explicacation mad therein: So as that meeting and re-referrence proved to be only an eſſay for a pacification.

For that haughty Earl *Montfort* hated the King, and endeavouring all he could his deſtruction, ſo thwarted all his actions, and domineer'd over him, as the King told him openly, That he feared him more than any Thunder or Tempeſt in the world. Being not pleaſed with what had been propoſed at that reviſionary Treaty, for what concerned his own particular intereſt and ſatisfaction, would rather bleed and embroil the Nation, than acquieſce in thoſe excellent Laws and Liberties which the King had granted in his *Magna Charta* and *Charta de Foreſta*, (which, like two Jewels of ineſtimable price in her ears, did help to bleſs, ſecure and adorn our BRITANNIA, whilſt She ſate upon Her Promontory, viewing and guarding Her *Britiſh-Seas*) and did therefore draw and entice as many as he could to go along with his envy, malice, ambition, and deſigns.

With which Ordination, Sentence and Award of the King of [g] *France* againſt the Barons, many were notwithſtanding ſo well ſatisfied with the King, and ſo ill with *Symon Montfort*'s proud and inſolent demeanour, as they withdrew themſelves from the rebellious part of the Barons; and although ſome for a while ſtaggered in their Opinions and Loyalty, becauſe (though the King of *France* condemned the proviſions made at *Oxford*, yet) he allowed King *John*'s Charter, whereby he left, as they pretended, the matter as he found it, for that theſe Proviſions, as thoſe Barons alledged, were grounded upon that Charter.

[g] *Daniel*, hiſt. in the life of K. *Henry* III.

But a better conſideration made many to diſpence with their ill-taken Oaths, and return to their Loyalty; as, *Henry* Son of the Earl of *Cornwall*, *Roger de Clifford*, *Roger de Leybourne*, *Hamo L'Eſtrange*, and others.

And it is worthy a more than ordinary remarque, that that King of *France* and his Councel, upon view and hearing of ſo many Controverſies and Tranſactions betwixt our King *Henry* III. and his rebellious Barons, could not be ſtrangers to the former and latter attempts, ill-doings and deſigns of that Party

of the *Engliſh* Baronage, did ſo little approve thereof, and of their *Parliamentary Inſolencies*, and *Oxford Proviſions*, as his Grand-child or Succeſſor, [h] *Philip le Bel* King of *France*, who reigned in the time of our *Edward* I. did within leſs than forty years after, *Pour oſter* (ſaith *l'Oyſeau*, a very learned *French* Author) *de la ſuitte le Parlement* (*qui lors eſtoit le conſeil ordinaire des Roys, voir leur faiſoit Teſte bien ſauvent*) *& luy oſter doucement la cognoſſance des affaires d'Eſtat*, to the no great happineſs, as it afterwards proved, of the *French* Nation) *erigea un cour ordinaire, & le rendit ſedentaire a* Paris *dont encore il a retenu ce teſte de ſon ancienne inſtitution qu'il verifie & homologue les Edicts du Roy.*

[h] *Charles l'Oyſeau* des ordres *Romains*, c. 2. 24

And now the doors of *Janus* Temple flew quite open; the Prince, with *Lewellin Prince of Wales*, *Mortimer*, and others, invade and enter upon the Lands of *Gilbert de Clare* Earl of *Glouceſter*, and ſome of the oppoſite Nobility; and the Earl of *Leiceſter* was as buſie on the other ſide, in ſeizing *Glouceſter* and *Worceſter*.

[i] Daniel 179.

Whereupon the King doubting *Montfort*'s approach to *London*, (being not yet ready for him) works ſo, as a mediation of Peace was aſſay'd, upon condition that all the Caſtles of the King ſhould be delivered to the keeping of the Barons, the proviſions of *Oxford* inviolably obſerved, all ſtrangers by a certain time ſhould avoid the Kingdom, except ſuch as by a general conſent ſhould be held faithful and profitable for the ſame. Here, ſaith the Hiſtorian, was a little pauſe, which ſeemed but a breathing in order unto a greater rage; The Prince fortifies, victuals, and garriſons *Windſor* Caſtle.

And the King, to get time, ſummoned a Parliament at *London*, where he won many Lords to his party, and with them *Richard* Earl of *Cornwal* his Brother, King of *Almaine*, *Henry* his Son, *William Valence*, with the reſt of his Brethren; marches to *Oxford*, whither divers Lords of *Scotland* repair unto him; as, *John Comyn*, *John Baliol*, Lords of *Galloway*, *Robert Bruce* and others, with many *Engliſh* Barons, *Clifford*, *Percy*, *Baſſet*, *&c.* from thence with all his Forces went to *Northampton*, took Priſoner young *Symon Montfort*, with fourteen other principal men; thence to *Nottingham*, ſpoiling the Poſſeſſions appertaining to the Barons in thoſe parts.

The Earl of *Leiceſter* draws towards *London*, to recover and make good that part of his greateſt importance, and ſeeks to ſecure *Kent* and the Ports; which haſtens the King to ſtop his proceedings, and to ſuccour the Caſtle of *Rocheſter* which he beſieged: whereby Succeſs and Authority growing ſtrong on the

the King's ſide, the [k] Earls of *Leiceſter* and *Glouceſter*, in behalf of themſelves and their Party, write unto the King, humbly proteſting their Loyalty, alledge, that they oppoſed only againſt ſuch as were enemies to Him amnd the Kingdom, and had bely'd them; unto which the King returned anſwer, that Themſelves were the perturbers of him and his State, enemies to his Perſon, and ſought His and the Kingdoms deſtruction, and therefore defy'd them; the Prince and the Earl of *Cornwal* ſending likewiſe their Letters of defyance unto them; who doubting the hazard of a Battel, ſend the Biſhops of *London* and *Worceſter* (their former encouragers) unto the King, with an offer of 30000 Marks for damage done in thoſe Wars, ſo as the Proviſions of *Oxford* might be obſerved.

[k] Daniel 180.

Which not being condeſcended unto, or thought fit to be allowed, *Montfort* with his Partners ſeeing no other means but to put all to the hazard of a Battel, made himſelf more ready than was expected, placed on the ſide of an Hill near *Lewis*, where the Battel was to be fought; certain Enſigns without men, which ſeemed afar off to be Squadrons ready to ſecond his men, (whom he cauſed all to wear *White Croſſes*, both for their own notice, and ſignification of the candour and innocency of his cauſe, which he deſired to have believed to be only for Juſtice.) And, as Rebels, firſt aſſaulting their King unexpectedly, began to charge his Forces, who were divided into three parts; The firſt whereof was commanded by Prince *Edward* the King's Son, *William de Valence* Earl of *Pembroke*, and *John Warren* Earl of *Surrey* and *Suſſex*; the ſecond by the King of *Almaine*, and his Son *Henry*; and the third by the King himſelf. The Forces of the Barons ranged in four parts, whereof the firſt was led by *Henry de Montfort*, and the Earl of *Hereford*; the ſecond by *Gilbert de Clare* Earl of *Glouceſter* and *Hertford*; *John Fitz-John*, and *William* of *Mount-Chency*; the third by the *Londoners*, and *Richard Segrave*; and the fourth by *Symon de Montfort* Earl of *Leiceſter* himſelf, and *Thomas de Pelveſton*; [l] And both ſides fighting with as great manhood as fury, the Prince and his Batalion, *cum tanto impetu in hoſtes irruit*, ſo beat and routed thoſe that ſtood againſt him, as he made them give back; many were ſlain and drowned, and the *Londoners* put to flight; whom the Prince over-charging, and purſuing by the ſpace of four miles, and putting many of them to the Sword, was ſo out of ſight, and far gone from the King's Army, as made them weaker than otherwiſe they would have been; [m] but at his return, inſtead of a Victory, found about 5000 of his Fathers Army ſlain, the King of *Almaine*, *Robert*

[l] *Walſingham ypodigma Neuſtriæ*, 469, & 470.

[m] Sir *Richard Baker's* Chronicle.

Robert de Bruce, and *John Comyn* (who had brought many *Scots* to the King's aid) taken Prisoners, with twenty-five Barons and Bannerets on the King's party, and the King himself having his Horse killed under him, made a Prisoner, and shut up in the Priory; *Ita reversus* Edwardus *gravi prælio excipitur*; So as the Prince at his return was freshly set upon by the prevailing party. The Earl *Warren*, *William de Valence*, and *Guy de Lusignan*, and *Hugh Bigod*, with forty armed Knights, fled to *Pevensey*; And the Prince, when he was returned to the Town of *Lewis*, sought his Father in the Castle; but not finding him there, went to the Priory, where he found him. In the mean time the conquering Barons assault the Castle, which they that were within so stoutly defended, as the besiegers withdrew; which heartned the Prince, so as he, *recollectis suis voluit iterum præliari*, recollecting his Forces, had a mind to try his and his Fathers fortune again, and fight it out, *quo cognito miserunt Barones mediatores pacis*; which the Barons understanding, sent unto him mediators to treat of a Peace, promising the next morning to do it with effect; at which time the Fryers, Minors and [n] Prædicants passing and labouring betwixt both parties, the matters were adjourned until *feria sexta* some days after, when Prince *Edward*, and *Henry* the King of *Almaine*'s Son, were given as Hostages for their Fathers the Kings of *England* and *Almain*, and *sub spe pacis & quietis* delivered to Earl *Symon de Montfort*, in the hopes of a peace and agreement, *ita ut cum deliberatione tractaretur quæ Provisionum & Statutorum essent pro utilitate Regni tenenda & quæ delenda*; so as they might at leisure, and with deliberation, treat and consider what Provisions and Statutes (probably those which had been made at *Oxford*, the Darlings of their designs) were for the good of the Kingdom to be kept, or what Laws were to be abrogated, such in all likelyhood as might clip the King's Regalities, and make them to be *as much*, if not *more*, King then Himself.) And that in the mean time the Prisoners on both sides should without any Ransom be set at liberty; Insomuch as the *Sunday* following all that had been taken on both sides were licensed to go to their own habitations; and the King, as the said *Symon de Montfort* had directed him, did write to those which were in the Castle of *Tunbridge* in *Kent*, to deliver it up to Earl *Symon*, which they did very unwillingly.

[n] Mat. Paris 996.

SECT.

SECT. VII.

Of the evil actions and proceedings of Symon de Montfort *and his rebellious partners, in the name of the King, whilſt they kept Him and his Son Prince* Edward, *and divers of the Loyal Nobility, Priſoners, from the* 14th. *of* May *in the* 48th. *year of his Reign, until His and Their delivery by the more fortunate Battel at* Eveſham *the* 4th. *day of* Auguſt *in the* 49th. *year of his tormented Reign.*

THe old Lyon thus taken and impriſoned, by the misfortune of his gallant Whelp's over-chaſing and purſuing of a part of his enemies in the day and extremity of the Battel, his Rebels, when they had him, were at a ſtand what to do with him: They durſt not let him looſe, for that would but reſtore him to his ſtrength and power, which his liberty might have regained: If they ſhould have murdered him, that would have been ſo wide from a fix'd accompliſhment of their wickedneſs, as, though it might have gained them a quiet, or for ſome time continued poſſeſſion of a Kingdom, yet it was not at all likely to have been ſettled to them and their heirs, whilſt there was ſo wiſe and valiant a Prince, and ſo many deſcendents of the Royal Line in remainder, which would have been always wreſtling and contending for it, by the aid and aſſiſtance of a numerous, Loyal, and Potent Nobility, and the common people, who would be able eaſily to diſtinguiſh betwixt right and wrong, would be more likely to love the former, hate, and bend all their forces and ill wiſhes againſt the latter, and mock and take all opportunities of revenge in the redemption of an immured Sovereign, his Crown, Dignity and Lineage: And therefore it would better ſuit with their wickedly-begun enterprizes, and already-gotten advantages, to make uſe of crafts and policy, and render his own power the means the faſter to enſnare and entangle him, by putting Him and his friends in hope of a peace, which they would not be very haſty in, until they had gotten his Caſtles and Strength into their hands, and drawn unto their party that part of his Subjects that had not intermeddled in the quarrels betwixt them, but like men amazed ſtood at a gaze, wondring at it, and might well diſtruſt, and be jealous of their former pretences and promiſes, when the Prince, that had made himſelf a Pledge and Hoſtage for his Father, that he might have his liberty, found it was never intended but to keep him, with all his hopes and fortunes, as much a Priſoner as himſelf.

And

And by thoſe and other arts and contrivances, with their rebellious Army not disbanded, but kept on foot to ſerve themſelves and their Priſoners, carried the King about with them from place to place, to countenance, againſt his will, their evil deſigns and actions: the people (not of their party) not daring to come either unto Him or Them, without Letters of ſafe conduct, which in the King's name, whilſt they play'd *Rex* with it and his Seal, they could grant and write what they pleaſed in the language of their own deſign, with which the *Patent* and *Cloſe* Rolls of that year and the next, with their Dates and *Teſte*, when they had him in their cuſtody, are well ſtor'd; and in the mean time made it to be a great part of their care and buſineſs, to cauſe to be delivered up unto them, ſuch Caſtles and places of ſtrength, as either they feared, or had not in their Poſſeſſion, as *Windſor*, *Notingham*, *Bamburgh*, *Carliſle cum multis aliis*, &c. Of which amongſt many, one to to *Drugo Barentyn*, (who had then in *Windſor-Caſtle*, the cuſtody of *Peter de Moutfort* taken in Arms againſt the King) may ſerve for inſtance, *viz.*

[o] Ro. Paten 48 H. 3. m 22.

Rex Drugoni de Barentyn [o] *Conſtabular: caſtri de* Windſor *ſalutem, quia ſpecialia negotia vobis communicanda habemus, vobis mandamus in fide quâ nobis tenemini firmitèr injungentes, quatenus omnibus aliis prætermiſſis ſitis ad nos* London *hoc inſtante die* Mercurii *ad ultimum nobiſnm locutum, & hoc nullatènus omittatis, nos enim præſentibus ad hoc vobis & his quos vobiſcum ducetis ſalvum & ſecurum conductum* (as much as a Priſoner could afford) *præbemus in cujus*, &c. *Teſte Rege apud Sanctum* Paulum London *Sexto die* Junii.

[p] Ro. claus. 48 H. 3 in 4 in Dorſo.

Upon the twenty ſeveneth day of *July*, *Anno* 48°. of his Reign, being at [p] St. *Pauls* in *London*; a Letter was written to the King of *France*, in theſe words, *Regi* Franciæ *Rex* Angliæ *Salutem; ſerenitatis veſtræ Literas per* Willielmum Charles *militem noſtrum nobis porrectas receperimus inter cætera continentes quod vobis multum complaceret, quòd firmam & utilem pacem nobis & Regno noſtro ad honorem Dei & noſtri cum Baronibus noſtris haberemus, & quòd aliquos de concilio veſtro uſque Bonon mittetis ad diem* Veneris *ante aſſumptionem beatæ* Mariæ *& quòd ipſis tunc intendentes ſitis prope, celſitudini veſtræ quantas poſſumus gratiarum referimus actiones, per hoc manifeſtè perpendentes quòd circà commodum & honorem noſtrum, nec non tranquillitatem & pacem Regni noſtri ſolliciti eſtis & intenti, nos autem die* Jovis *prox: poſt feſtrum Sancti* Petri *ad vincula erimus apud* Dover, *ita quòd nuntii noſtri & Baronum noſtrorum dicta die* Veneris *erunt apud Bonon Domino concedente ad tractand' & faciend' de dicta pace prout nobis*

bis significâſtis; & quia negotium iſtud tam cæteros Principes quam Nos tangit in ordinatione pacis prædict' ad honorem Dei noſtri & Hæred' noſtrorum honori & indempnitati ac tranquillitati Regni noſtri liberalitèr & benignè ſi placet providere velitis. Teſte Rege apud Sanctum Paulum, London *viceſimo ſeptimo die* Julii.

Within three [q] dayes after, being the Thirtyeth of *July* in the ſame Year, a Letter was ſent in the Name of that Captive King, to *Simon de Montfort* Earl of *Leiceſter*, and *Gilbert de Clare* Earl of *Glouceſter* and *Hertford*, (who were the Chief of the Party, who had ſubdued, taken, and kept him Priſoner) in the Form following, *viz. Rex dilectis & fidelibus ſuis* Simoni *de* Monteforti *Com'* Leiceſtr', & Gilberto *de* Clare *Com'* Gloceſtr' & Hertford' *Salutem. Cum nupertr anſcriptum literarum Domini Regis* Franciæ *quod vobis pridiè tranſmiſimus manifeſtè perpendere poſſitis, quod ſi cum præfato Rege* (a ſpecial friend of their own Party) *& aliis de partibus tranſmarinis tractatum pacis habere debeamus, oportet quod ſolempnes Nuncii de Concilio noſtro & veſtro* (as if they were Partner Kings) *ſint apud* Bonon' *die Veneris prox. poſt feſtum Sancti* Petri *ad vincula ſcilicet die Veneris ante Aſſumptionem Beatæ* Mariæ *in occurſu Nunciorum præfati Regis, & quòd Nos ipſo die vel die* Jovis *præcedenti ſimus apud* Dover, *ſicut præfato Regi de concilio Magnatum qui ſunt nobiſcum litteratoriè ſignificavimus, & vos propter brevitatem temporis & diſtantiam locorum perſonaliter vix adeſſe poſſitis tempeſtivè, vos rogamus, quatenus ſtatu* Regni *noſtri mandato præfati Regis* Franciæ, *& periculis quæ nobis & Regno noſtro ex prorogatione dicti negotii poterunt imminere, diligenter penſatis viſis literis provideritis de Nuntiis ſolempnibus & idoneis uſque* Bonon' *mittendis ad diem Veneris ſupradictum, & cum eis ad Nos mittatis dilectum & fidelem noſtrum* Petrum *de* Monteforti (the Earl of *Leiceſter's* near Kinſman, a moſt inſolent domineering Adverſary) *cum formâ & poteſtate tractandi & firmandi pacem melius & ſalubrius fuerit faciend', mittatis etiam ad Nos aliquos ad eundum nobiſcum uſque* Dover, *& ad concilium impendendum, & reſponſum Nuntiis euntibus & redeuntibus nobiſcum de concilio veſtro faciendum, quouſque perſonaliter veniatis; & quia præſens negotium ſummam et ineſtimabilem requirit Celeritatem, eò quòd tempus breve eſt ultra modum, vos ambo, ſi quomodo fieri poſſit, vel alter veſtrum ſtatim viſis literis ad nos veniatis, et ſi* Edvardus *filius noſter et* Henricus *de* Almaine *nepos noſter nobiſcum eſſent apud* Dover, *certi ſumus quòd celerem et ſatis bonam pacem haberemus, et ideò ſi placet ipſos tanquam Obſides in ſtatum quo nunc ſunt, ib. venire Fac. T. &c. XXX die Julii.*

[q] Ro. claus. 48. H. 3. in 4 Dorſo.

Upon the 4th. day of *September*, in the ſame year and time of the King's Impriſonment, all that he could do was upon his Petition, as the Record ſlovenly and undutifully intimateth,

to get licence that *Henry* the Son of *Richard* King of *Almaine*, (who was kept as a Priſoner in *Dover* Caſtle, as a Pledge for his Father) might go into *France*, to treat with that King (their Old Confederate and Friend) for a Peace to be made betwixt the King and his Barons, upon his Oath to do no prejudice to the diſloyal Barons, and that he might abide there until the Nativity of the *Bleſſed Virgin* at Night, or within two or three days after, upon a new Licence of thoſe Barons, and Bayl given by the Envoys or Embaſſador of the King of *France* reſident in *England*, that he ſhould not be detained in *France*; upon an undertaking alſo of the ſaid *Henry de Alemannia* to forfeit all his Lands and Poſſeſſions which he had or might have in *England* by Inheritance or otherwiſe, and to be utterly deprived thereof, and the ſeveral Bonds or Recogniſances ſeverally given of the Biſhops of *London*, *Lincolne*, *Worceſter*, *Wincheſter*, *Chicheſter*, *Coventry* and *Lichfield*, with the Biſhop Elect of *Bath*, in 20000 Marks in Silver a piece that he ſhould return and render himſelf a Priſoner as aforeſaid, as the Record thereof in the Words enſuing doth teſtifie.

48 *H.* 3. m. 3.

Rex omnibus, &c. *Cum dilectus et fidelis noſter* Henricus *filius Regis* Almannia *Germanus noſter Chariſſimus ſub cuſtodia dilecti et fidelis noſtri* Henrici *de* Monteforti *Conſtabularis caſtri noſtri* Doveriæ, *ſub certâ formâ Obſes conſtitutus fuiſſet pro pace Regni noſtri conſervanda et ad Petitionem noſtram pro pace inter Nos et Barones noſtros prælocuta tractanda pleniùs et finienda ad Dominum Regem* Franc. *Illuſtrem in partes proficiſceretur tranſmarinas idem* Henricus Almannia *obtenta ab eis quibus Obſes datus fuerat ſuper prædictis transfretandi licentia in præſentia noſtra et venerabilium Patrum H.* London. R. Lincoln. W. Wigorn'. J. Winton'. S. Ciceſt'. R. Covent'. *et* Lich'. *W.* Say'. *Epiſc. et W. electi* Bathon'. *promiſit bonâ fide et tactis ſacroſanctis Evangeliis juravit quod cum omni ſtudio et diligentiâ pacem prædictam procurabit, et nihil omninò faciat vel proponat verbo vel facto vel aliquo alio modo clàm vel palàm, quod poſſit eſſe contra pacem prædictam ſeu per quod pax ipſa impediri poſſit quoquomodo vel differri ubi prædicti Barones gravari, et quod ſive pacem procurare poſſit, ſive non quod omni occaſione et dilatione poſtpoſita uſque ad feſtum Nat'. beatæ* Virginis *prox. futur'. tota die ipſa ſibi data revertetur ad caſtrum* Dovor'. *et ibi ponet ſe in manibus prædicti* Henr'. *de* Monteforti *tanquam Obſidem eodem modo et ſub eadem forma, ſicut erat ante receſſum ſuum, ità tamen quòd ſi pro negotii conſummatione ultra terminum prædictum per duos aut tres dies ad plus moram ipſius longior neceſſaria fuerit pro tanti temporis morâ dummodo Baron'. infra tempus prædictum ſuper hoc*

præmu-

premuniverit, & poſt biduum & triduum redierit nullatenùs occaſionetur, Dominus verò de Nigol *& Dominus P. le Chamberlens & Magiſter* Henricus *de* Verdel' *Nuntii prædicti Domini Regis* Franciæ. *Manu cœperunt, quod dictus* Henricus *de* Almannia *in regno* Franciæ *quo minus termino predicto liberè reverti poſſit à quoque non detinebitur invitus; voluit autem* Henricus *de* Almannia *& conceſſit expreſsè, quòd ſi prædictæ non obſervaverit, vel contrà ea vel eorum aliquod quoquomodo venire præſumpſerit, hoc ipſo terras ſuas omnes tenementa & poſſeſſiones, quæ in regno noſtro habet vel habere poterit, jure hereditario vel quovis alio modo, totaliter perdat, & eiſdem ipſo facto perpetuò privatus exiſtat, nullo jure Sibi aut Hæredibus ſuis in poſterum competente: In eisdem ad hæc prædicti Domini Epiſcopi & electus immo & Epiſcopus* Bathon', *pro præfato* Henrico *de* Almannia *manu cœperunt, quod infrà terminum prædictum revertetur, & in eodem ſtatu ſe reponet, in quo erat tempore receſſus ſui niſi caſu fortuitò & inevitabili fuerit præpeditus, & hoc promiſerint ſub pœna viginti millium Marc' argenti ſinguli inſolidum commitend' præfat'* Henrico *de* Monteforti *Cuſtodi ejuſdem* Henr' *de* Almannia, *& cum effectu ab eiſdem Epiſcopis exigend', ſi infra prædictum tempus reverſurus non fuerit & obſidem ſe reddiderit ut prædictum eſt. In cujus, &c. Teſte Rege apud* Cantuariam *quarto die Septembris.*

And in their Marching to and fro with their King a priſoner, in a victorious, powerful, undisbanded and undiſturbed Army, thought it would be convenient for their evil Purpoſes to attract, as much as they could, the good Will and Hopes of the Clergy, by an *Embrio* or Promiſe (made amongſt themſelves the Sixth day of *October* in the Forty-eighth year of that over-power'd King's reign) of ſome Act or Order of Parliament, when they ſhould be at leiſure to obtain it, in theſe words, *viz.*

Purveu eſt [s] *per comun aſſentement du Roi & des Prelaz des Contes, & des Barons de la tere ke les treſpas ke fait ſont contre ſeinte Egliſe en* Engleterre *par acheſon de trublement & de la guerre ke adeſte en Reaume de* Engleterre *ſoient amendez en ceſte forme.* [s] Ro. Pat. 48 *H.* 3. m. 2. *dorſo.*

Soint eſluz des Contes & des graunz gentz de la tere, par la volenté & l'aſſentement des Prelaz trois Eveſques ki des amendes reſnables ke ſont a foire pur les avantditz forfez ke ont eſte fait contre ſeinte Egliſe, aient plein poeer de eſtablir & de purver kanqe bone ſera & renable choſe ceuſque eſcomenge ſeront trovez ſoient aſſous en forme de Droit par ceus qui Poeer averont.

La Poeer des Prelaz ſoit affirmee en ceſte manere, promis ſoit en bone fai des Contes e de la Juſtice & des autres lais qui ſont du Counſeil le Roi e autres graunz Barons du Reaume, ke totes les choſes ke les Prelaz

laz ke eleus ſeront purverunt renablement en nun des amendes garderont pur ſoi e metteront peine e bone fei de fere garder des autres & de ce endoignent lor lettres overtes Derechef as Prelaz, puis kil ſeront eſluz, ſoit done pleine poeer du Roi e de la Communaute des Contes & des Barons & de graunz hommes de la tere, a purver les choſes kee beſoignables ſont e profitables a plein Reformement dec Eſtat de ſeint Egliſe al Honur deu a la Foi noſtre Seinur le Roi e au profit du Reaume, & cco ſoit premis en bone foi par le Roi & par les Contes & les avantdiz Barons, & par les autres graunz hommes de la tere, ſi en facent lec' lettres overtes, ceſt aſſaver des choſes ke unt eſte faites pus la Paſch' dereine dont un an ce eſt aſſaver le an noſtre Seignor le Roi.

Si nul ſoit trove, ke ne voile eſter al ordenement e la purveiaunce des avandiz Prelaz en les choſes avont dites, e ſelom les formes avant dites, ſont deſtreint par ſentence de ſeinte Egliſe: E ſi meſter eſt ſoient deſtreint per la Laie force, E que ceſte choſe ſe puiſſe meuz faire eit la juſtice cent ou plus Chevalers ou Seriaunz Soudeers eluz a deſtreindre les meffeſours, quant il ſerra requis par les avanditz Prelaz Citens Soudeers de bens Communs de ſeinte Egliſe ſoient ſuſtenuz taunt com il ſont en cele beſoine. E ceſt ordenement durge ſovans a un an ou a deus Dekes les choſes ſoient ben en pes, e les purveaunces de Prelaz & la pes de la tere bien meintenue.

Purveu eſt, ke les bens des Benefites de ſeinte Egliſe des aliens e des autres ke ont eſt contre la tere ſoient celui e ſauvement garde par les mains des Prelaz deſerves a taunt ke ſoit purveu par comun Conſeil ke leu devera faire. E a fermete en teſmoinaunce de ceo le Roi & les hauz Homes de la tere ont mis lur ſeus a ceſt eſcrit, Teſte Rege apud Cantuar' *Sexto die* Octobris.

t Ro. claus. 49. *H.* 3. m. 12. *dorſo.*

The 30th. day of that *October* t *Anno.* 49. of his ſorrowful Raign which began *October* 19. *Annoque Domini.* 1216. they cauſed a Letter to be written in his name to the King of *France* for a ſafe Conduct for the King's Envoyes with the Meſſengers of the Barons to treat of a Peace with him, and the Pope's Legats, concerning the State of the Kingdom, as followeth,

Egregio Principi Domino, & Conſanguineo ſuo kariſſimo Domino Lud. *Dei gratiâ Regi* Franciæ, Rex &c. *Cùm nuper quoſdam de fidelibus Noſtris ad præſentiam veſtram & ad venerabilem Patrem G.* Sabin' *Epiſcopum Apoſtolicæ ſedis Legatum, nec non ad alios amicos noſtros in partibus illis ad tractandum de Reformatione & Pace ſtatus Regni noſtri deſtinavimus, quibus eundo illata fuerunt enormia Dampna, de quibus anxiati* (with ſome indiſcernable grief) *fuſtis ut intellexerimus, propter quod alii periculis huiuſmodi ſe committere minus auſi ſunt, Serenitatem veſtram recipimus affectione quâ poſſumus ampliori, quatenùs Nuntiis noſtris & Baronum noſtrorum*

noſtrorum ad præſentiam veſtram & ad Legatum ſupradictum, nec non ad alios amicos noſtros partium illarum in brevi deſtinand' pro negotiis antedictis Salvum & Securum Conductum veſtrum in eundo, ibidem morando, & inde recedendo, concedere velitis Literas veſtras inde patentes per latorem præſentium Nobis ſi placet tranſmittentes, & ad ipſos tutiùs conducendos aliquos de fidelibus veſtris uſque Witſand. in Octabis *inſtantis ſancti* Martini *obviam noſtro amore ſibi mittatis. Teſte Rege apud* Weſtminſter *triceſimo die* Octobris *Anno Regni noſtri quadrageſimo nono.*

The 3d. day of *December*, in the Year aforeſaid, they being in want of Money to maintain and keep their Army together, [u] carry on their Deſignes and their Royal Priſoner, cauſed a Writ to be ſent to the Biſhop of *Norwich* for ſome Supply, *Sub hac formâ.* [u] Ro. claus. 49. *H.* 3. m. 12. in *dorſo.*

Rex Norwicenſi *Epiſcopo Salutem; Cùm per Prælatos & Magnates Regni Noſtri proviſum eſſet unanimitèr & conceſſum, quòd Decimæ proventuum omnium beneficiorum in Regno Noſtro darentur ad communem utilitatem eiuſdem Regni & Eccleſiæ* Anglicanæ, *& quòd huiuſmodi Decimæ per locorum Epiſcopos levarentur, & ad Nos mitterentur, & tunc vobis mandaverimus, quòd juxta Proviſionem prædictam in veſtrâ Dioceſi de beneficiis Eccleſiaſticis huiuſmodi Decimas levari & ad Nos mitti faceretis indilatè convertendas in communem Utilitatem Regni Noſtri & Eccleſiæ prædictæ, quod huc uſque facere diſtuliſtis, de quo miramur quàm plurimum & movemur, vobis iteratò mandamus firmiter injungentes quatenus huiuſmodi Decimas ſine omni dilatione levari, & eas uſque* London *modis omnibus tranſmitti faciatis liberand' venerabilibus Patribus* H. London, & W. Wygorne *Epiſcopis, quibus injunximus, quòd eas recipiant & ſalvo cuſtodiant, donec aliud inde preceperimus, ità quòd eas habeant in vigilia* Epiphaniæ *Domini proxime futuri ad ultimum, & hoc ſicut vos & honorem veſtrum diligitis nullo modo omittatis, ſcituri, quòd niſi feceritis mandavimus Vicecomiti noſtro* Norff. & Suff. *quòd uſque ad ſeptingentas Marcas* (A Mandate which the Biſhops of *London* and *Worceſter* would not have been content with, if the King had been at liberty, and had not been as then he was a Priſoner to their Rebellious Party) *in partem Solutionis prædictæ de Bonis & catallis veſtris in Comitatibus prædictis ſine dilatione levari & ad Nos mitti faciat ſine morâ per* Rad' *de* Camois, Egidium *de* Argen' Londini & Wigorniæ *Epiſcopos. Teſte Rege apud* Oxon 30. *die* Decembris.

The 14th. day of that *December* next following, having carried him in their victorious Army to *Worceſter*, they cauſed a Writ to be made in his Name and under his Seal, directed to the Biſhop of *Durham*, in theſe words, *viz.*

Henricus

w *Elfings* Antient and Present manner of holding Parliaments in *England*. 7 and 9. & *Ro. clauſ.* 49. H. 3. in *dors* in *Schedul.*
x *Mat. Paris* 995. 996. and 255.

w Henricus *Dei gratiâ Rex* Angliæ & *Dominus* Hiberniæ & *Dux* Aquitaniæ *venerabili in Chriſto Patri* R. *eadem gratiâ Epiſcopo* Dunelmenſi *ſalutem*; *Cùm poſt gravia turbationum & diſcriminum dudùm habita Regno, Chariſſimus filius* Edwardus *primogenitus noſter, pro pace in Regno Noſtro aſſecuranda & firmanda, Obſes traditus exſtitiſſet, & jam ſedatâ (benedictus ſit Deus) turbatione* x *prædictâ ſuper deliberatione ejuſdem ſalubriter providendâ & plenâ ſecuritate & tranquillitate pacis ad honorem Dei & utilitatem totius Regni Noſtri firmandâ & totaliter complendâ, ac ſuper quibuſdam aliis Regni Noſtri negotiis, quæ ſine concilio veſtro & aliorum Prælatorum & Magnatum noſtrorum nolumus expediri cum iiſdem Tractatum habere Nos oportet, vobis rogantes in fide & dilectione quibus Nobis tenemini, quòd omni excuſatione poſtpoſita & negotiis aliis prætermiſſis ſitis ad Nos* London *in Octabis ſancti* Hillarii *proximi futuri Nobiſcum & cum prædictis Prælatis & Magnatibus noſtris quos ibidem vocari fecimus ſuper præmiſſis tractaturi & concilium impenſuri, & hoc ſicut Nos & Honorem noſtrum & veſtrum, nec non & communem Regni Noſtri Tranquillitatem diligitis nullatenùs omittatis. Teſte Meipſo* 14. Decembr' *Anno Regni Noſtri* 49°.

In formâ prædictâ ſubſcribitur Epiſcopis, Abbatibus, Prioribus ſubſcriptis, &c.

In formâ prædictâ mandatum eſt Comitibus noſtris & aliis ſubſcriptis. Dat. apud Woodſtock 24° *die* Decembris *prædicti*, viz.

Comiti Leiceſter, *Comiti* Glouc. *Comiti* Norff. *& Mareſcallo* Angliæ, *Comiti* Oxon, *Comiti* Derby, Rogero *de* Sancto Johannis, Hugo *de* Spencer *Juſticiar'* Angliæ, Nicholao *de* Segrave, Johanni *de* Veſcy, Roberto Baſſet, G. *de* Lucie & Gilbert *de* Gaunt, which were notoriouſly known to be of their Party and like Inclinations, in number 25 or 23, a Blank yet remaining upon the Record for the names of thoſe more Loyal that were not of their Conſpiracy, which were very many, the Writ it ſelf to *Simon Montfort* Earl of *Leiceſter* and his Conſorts in that ungodly Enterpriſe being not to be found at all entred.

And of the ſame date ſent out Writs, in the Kings Name and under his Seal, directed to all the Sheriffs of the Realm, wherein ſignifying the Kingdom to be then in peace and quiet, and the King's deſire to eſtabliſh the ſame to the honour of God and benefit to his People, to ſend to the *Parliament*, which was to be holden at *London* in the *Octaves* of *Saint Hillary* then next enſuing, two Knights Elected for each County, and of the Cityes and Boroughs two Citizens or Burgeſſes, to treat with the King, Prælates, and Barons, and give their Counſel.

Dugdales *Origenes juridiciales tit.* Parliament. 18.

Which

Which Writs of Summons (in the framing whereof their VVits could not be at leiſure to think of an Election of Burgeſſes or Procurators for the two Univerſities of *Oxford* and *Cambridge*, as if thoſe Seminaries of Learning had been incapacitated and merited a *procul ite prophani)* made in and by the Name of a captive King, whilſt he was a Priſoner of War, not taken by Surpriſe or Ambuſcado, but Fighting in a Battle againſt a mighty Army of Rebels, that ſhould have been his Subjects, had it ſeems no other effect, than an Attempt to ſummon their contrived new-faſhioned Parliament; for that by a general Diſturbance (none of the many Boroughs in *Cornwal* being then likely to come, for that the Earl of *Cornwal* was on the King's Party and a Priſoner) and Commotion of the Kingdom in their Minds and Eſtates, Diſcontents of the vanquiſht Nobility, Abſence and feared Inſurrections of that and a great part of the Baronage and People that were not in the Battle on either ſide, and the Decoy cunningly inſerted in their Writs of Summons to a kind of Parliament of their own framing, that *Pax Reformata fuit* betwixt him and the Barons, *Benedictus ſit Deus*, enticed many, that either Fear or Flattery perſwaded to be on the Stronger and Prevailing Side, to make their Peace with them; and either to Joyn with them, or ſtand aloof off, and enjoy as well as they could, their large Poſſeſſions and Eſtates, which in thoſe times could draw many Tenants and Followers after them.

And being Jealous of the Affections, Power, and Strength of *John Balioll*, and *Peter de Brus*, with certain other Lords of *Scotland*, *Robert de Nevil*, and ſome of the Northern *Engliſh* Barons, a Writ in the King's Name was alſo the 24th day of that *December*, ſent unto them to come to *London*, (but without any certain Day, or mention that they were there to Treat *cum Prælatis*, *Comitibus*, or *cum cæteris Magnatibus de arduis negotiis Regni*, and not mixt with other Affairs, as the former or after Form of Summons to Parliament, or thoſe great Councils, were accuſtomed to be) with a more than ordinary ſafe Conduct for their Perſons, and Security in the *interim* for their Lands and Eſtates in the form following, *viz.*

Rex Johanni *de* Bailol [y], Petro *de* Brus, Roberto *de* Nevil, Euſtachio *de* Bailol, Steph. *de* Menill, Gilberto Haunſard, Rad' *filio* Ranulphi Ad' *de* Genſenr', Roberto *de* Stotevil *de* Atton' *& ſociis ſuis partium borealium Salutem; Cùm Kariſſimus filius* Edwardus *primogenitus noſter pro Pace in Regno noſtro aſſecurandâ Obſes deputatus extitiſſet, & jam ſedatâ (benedictus Deus) turbatione prædictâ ſuper liberatione ejuſdem ſalubriter providendâ & plena ſecuritate tranquillitatis*

[y] Ro. Pat. 49 H. 3. m. 26.

&

& pacis ad honorem Dei & utilitatem totius Regni Noſtri firmandâ finaliter & complenda, per quod vobiſcum volumus habere tractatum ſuper præmiſſis & aliis negotiis Noſtris arduiſſimis, & pluries vobis mandaverimus quòd ad Nos veniretis, Nobiſcum ſuper ſpecialibus negotiis Noſtris colloquium habituri, quod hucuſque facere diſtuliſtis, de quo miramur & quàm plurimùm movemur; vobis iteratò mandamus firmiter injungentes, quòd omnibus negotiis prætermiſſis ad Nos London *ſine omni dilatione veniatis Nobiſcum ſuper præmiſſis locuturi, & hoc ſicut Nos & Honorem Noſtrum & veſtrum diligitis, nullo modo omittatis; & ut ſecurius ad Nos venire poſſitis mittemus dilectum & fidelem noſtrum* Johannem *de* Burgo *ſeniorem ad conducendum vos ſalvo & ſecurè, ſicut in Literis noſtris patentibus quas idem* Johannes *ſuper hoc habet plenius continetur; mandavimus etiam dilectis & fidelibus noſtris* Johanni *de* Veſcy, Henrico *de* Haſtinges, Joh' *de* Eynill, Adi *de* Novo Mercato *& aliis fidelibus noſtris cum eis in partibus illis exiſtentibus, quòd à gravaminibus, moleſtiis, dampnis, ſeu injuriis vobis aut hominibus veſtris ſi ad Nos veneritis inferendis penitùs deſiſtant. In cujus, &c. Teſte Rege apud* Wodeſt' *viceſimo quarto die Decembris.*

[z] Ro. Clauſ. 49 H 3. m. 11. dorſo.

And the 26th day [z] of that *December*, *Symon Montfort* and his Confederates, wanting the Council and Aſſiſtance of the Biſhop of *Norwich*; and not knowing what to do either with the Old Lyon or the Young, directed a Writ unto him in the King's name in theſe words, *viz.*

Rex Epiſcopo Norwicen', *Cùm poſt gravia turbationum diſcrimina dudum habita in Regno noſtro kariſſimus filius* Edwardus *Primògenitus Noſter pro Pace in Regno Noſtro aſſecuranda & firmanda Obſes traditus extitiſſet, & jam ſedatâ (benedictus Deus) turbatione prædictâ ſuper deliberatione ejuſdem ſalubriter providenda & plena ſecuritate tranquillitatis & pacis ad honorem Dei & utilitatem totius Regni Noſtri firmanda & totaliter complenda, ac ſuper quibuſdam aliis Regni Noſtri negotiis quæ ſine conſilio veſtro & aliorum fidelium & Magnatum noſtrorum nolumus expediri cum eiſdem tractatum habere Nos oporteat, vobis mandamus rogantes in fide & dilectione quibus Nobis tenemini, quòd omni occaſione poſtpoſitâ & negotiis aliis prætermiſſis ſitis ad nos* London *in* Octabis *Sancti* Hillarii *proximè futuris, Nobiſcum & cum prædictis fidelibus & Magnatibus noſtris quos ibidem vocari fecimus ſuper præmiſſis tractaturi & concilium veſtrum impenſuri, & hoc ſicut nos & honorem noſtrum & veſtrum nec non ad communem Regni Noſtri tranquillitatem diligitis nullatenùs omittatis. Teſte Rege apud* Wod' *viceſimo ſexto die* Decembris.

[a] *Pryn's* Brev. Parliamentaria Rediviva 242.

And believing it to [a] conduce much unto their naughty purpoſes to have the *Cinque-Ports*, who were by their Tenures obliged to furniſh out yearly a certain number of Ships for the ſafeguard of the Kingdom and Seas appertaining thereunto, to be

ſo

ſo much at their Devotion and Command, as to hinder any Ayd which might come from any of the King's ſubjects and dominions in *France*, for the Reſcue of the King and Prince out of their Impriſonment and Captivity, from which they never intended to Releaſe them, until they had Deſpoiled him of all, or the greateſt part of his Regalities: The Writ following was the 20th day of the then next following Month of *January*, directed unto the Barons and Bailiffs of the *Cinque-Ports* to do that which they never did before, as followeth, *&c.*

Rex Baronibus & Ballivis portus ſui de Sandwico *ſalutem. Cum Prælati & Nobiles Regni Noſtri tàm pro negotio Liberationis* Edwardi *Primogeniti Noſtri quàm prò aliis Communitatem Regni Noſtri tangentibus ad inſtans Parliamentum noſtrum quod erit* London *in* Octabis *Sancti* Hillarii *convocari fecimus, ubi veſtrâ ſicut & aliorum fidelium noſtrorum præſentiâ plurimùm indigemus, vobis mandamus in fide & dilectione quibus Nobis tenemini firmitèr injungentes, quòd omnibus aliis prætermiſſis mittatis ad* Nos *ibidem quatuor de legalioribus & diſcretioribus Portûs veſtri, & quòd ſint ibidem in* Octabis *prædictis Nobiſcum & cum Prælatis & Magnatibus Regni Noſtri tractaturi & ſuper præmiſſis concilium impenſuri, & hoc ſicut honorem noſtrum & veſtrum & communem utilitatem Regni Noſtri diligitis nullatenùs omittatis: Teſte Rege apud* Weſtm' *Viceſimo die* Januarii.

Similiter mandatum eſt ſingulis Portubus; being within the very *Octavies* of St. *Hillary*.

The Firſt day of *February*, in the year and time of the King's Impriſonment as aforeſaid, ſome diſcords and diſturbances continuing in the Univerſity of *Cambridge* amongſt the Students and Schollars, which was begun three years before; and ſome Endeavours uſed to remove that Univerſity, or conſtitute and ſet up another at *Northampton*; a Writ was as followeth, ſent in the Name of the King, to the Mayor and Citizens of *Northampton* to prohibit it, *viz.*

Rex Majori & [b] *Civibus ſuis* Northampton' *ſalutem*; *Cùm occaſione cujuſdam magnæ Contentionis in villa* Cantabr' *triennio jam elapſo ſubortæ nonnulli Clericorum tunc ibidem ſtudentium unanimitèr ab ipſâ villa receſſiſſent ſe uſque ad villam veſtrum prædictam* Northamp' *transferentes & ibidem ſtudiis inherendo novam conſtruere Univerſitatem cupientes, Nos illo tempore credentes Villam illam ex hoc poſſe meliorari, & Nobis utilitatem non modicam inde provenire votis dictorum Clericorum ad eorum requiſitionem annuebamus in hac parte, nunc autem ex relatu multorum fide dignorum veracitèr intellexerimus, quòd ex hujuſmodi Univerſitate ſi permaneret ibidem municipium noſtrum* Oxoniæ *quod ab antiquo creatum eſt & à Progenitoribus Noſtris Regibus* Angliæ *confirmatum, ac ad commoditatem Studentium communitèr approbatum* [c] *non mediocritèr*

[b] Ro. claus. 49 *H.* 3. m. 10. *Dorſo.*

[c] *Speeds* Hiſt. of *Engl.* in the life of H. 3. 633

diocritèr lederetur quod nulla ratione vellemus (the rather probably, for that *Symon Montfort* and his Partners had but a little before taſted of the ſeduced Friendſhip of that Univerſity, when many of its Students, under a Banner of their own, came to the Seige of *Northampton*, and Fought ſtoutly for them againſt their King) *maximè cum univerſis Epiſcopis terræ noſtræ ad honorem Dei & utilitatem Eccleſiæ* Anglicanæ *& proficui Studentium videatur expedire, quòd Univerſitas amoveatur à Villa prædictâ, ſicut per Literas ſuas patentes accepimus, vobis de conſilio Magnatum noſtrorum firmitèr inhibemus, nè in villâ veſtrâ de cœtero aliquam Univerſitatem eſſe nec aliquos Studentes ibidem manere permittatis alitèr quàm antè Creationem dictæ Univerſitatis fieri conſuevit. Teſte Rege apud* Weſtm' *primo die* Febr'.

The 8th day of that *February*, *Urianus de Sancto Petro*, and others of the County of *Cheſter*, ſubmitting themſelves *ad pacem* of the King, (as they were willing to have that Rebellion called) they did in the King's Name give order for a Reſtitution of his Lands, and a Protection for the future in theſe Words, *viz.*

d Ro. Clauſ. 49 H 3. m. 10. dorſo.

Rex Rogero *de* Lovetot d *ſalutem; Cùm* Urianus *de Sancto* Petro, *ſicut & alii de Comitatu* Ceſtriæ *ad Pacem Noſtram venerit, per quod de conſilio Magnatum noſtrorum, qui ſunt de Conſilio Noſtro, ipſum & omnes terras & tenementa ſua in protectionem & defenſionem Noſtram ſuſcepimus, & jam de Conſilio Noſtro prædicto ſit proviſum, quòd omnes terræ & tenementa ipſius* Uriani *occaſione turbationis in Regno Noſtro nuper habitæ per quoſcunque occupata ſibi reſtituantur, ac vos terras & tenementa prædicti* Uriani *in Comitatu* Hunted'. *occupaveritis & ea detineatis occupata occaſione turbationis prædictæ ut accepimus, vobis de Conſilio noſtro prædicto mandamus in fide & homagio quibus Nobis tenemini firmitèr injungentes, quòd omnes terras & tenementa prædicta per vos & veſtros ſic occupata ſine dilatione reſtituatis eidem, & hoc nullatenùs omittatis. Teſte Rege apud* Weſtmonaſterium 8° *die* Februarii.

The Fifteenth day of the ſame Month and Year reciting, That the King had cauſed two of the diſcreeteſt Knights of every County of *England*, to be at his Parliament (as the Barons that kept him Priſoner were deſirous to Style it) *ad tractandum* with the King and his Council, *de liberatione* Edwardi *filii Noſtri, &c.* And being informed, that two Knights for the County of *York* had tarried long, (not much above three weeks) been at great Expences, and paid great Loans and Taxes towards the defence of the Kingdom, and Maritime parts againſt the Invaſion of Alien Enemies (the men that they ſo called, being only the King's *French* ſubjects) they did in the King's Name com-

command, That the ſaid two Knights of that County, *de conſilio*, by the Advice and Ayd of four Knights of the ſaid County, ſhould Leavy the ſaid Knights expences in their coming to that ſo called Parliament, tarrying and return, which was either but a few dayes before ended, if it did either ſit or do any thing at all in ſuch a time of publick and general Diſtraction, with a proviſo, and under a condition, that the Commonalty ſhould not be *Ultrà modum* oppreſſed thereby, in words enſuing.

Rex Vicecomiti e Eborum *ſalutem. Cùm nuper vocari fecerimus duos de diſcretioribus Militibus ſingulorum Comitatuum noſtrorum* Angliæ *quòd eſſent ad* Nos *in Parliamento noſtro apud* London, *in* Octabis *Sancti* Hillarii *proximò præteritis ad tractandum Nobiſcum & cùm Conſilio Noſtro ſuper deliberatione* Edwardi *filii noſtri kariſſimi & ſecuritate inde faciendâ, nec non & aliis arduis Regni Noſtri negotiis ac iidem Milites moram diuturniorem quàm credebant traxerint ibidem, propter quod non modicas fecerint expenſas, cùmque Communitates dictorum Comitatuum varias hoc anno fecerint præſtationes ad defenſionem Regni Noſtri & maximè partium maritimarum contrà hoſtilem adventum Alienigenarum, per quod aliquantulum ſe minimum ſentiunt gravatas, tibi præcipimus, quod duobus Militibus qui pro Communitate dicti Comitatûs præfato Parliamento interfuerunt de conſilio, quatuor legalium Militum ejuſdem Comitatus rationabiles expenſas ſuas in veniendo ad dictum Parliamentum ibidem morando & inde ad partes ſuas redeundo provideri, & eas de eadem communitate levari facias: Proviſò quòd ipſa Communitas occaſione præſtationis iſtius ultrà modum non gravetur. T. R. apud* Weſtm' 15° *die* Februarii. e Ro claus. 49 *H.* 3. m. 10. *dorſo.*

Which may warrant a Belief, that either no other came, or that new-invented kind of Parliament did not at all Sit, there being upon diligent ſearch of all the Records of that greatly-troubled Year, none other to be found of that nature. Wherein, though no care was taken of other Countyes, or of any the very many Burgeſſes of that County, or of any other County intended to have been ſent to that newly and firſt-of-all deviſed kind, or manner of an *Engliſh* great Council or Parliament, it appears to have been the firſt and only Writ for Parliament-men or Members of the Houſe of Commons in Parliament, that had or did bear any Reſemblance with that allowance of Wages to any Members of Parliament in the Houſe of Commons (howſoever much different) after a long interval of Time, uſed for Wages allowed for Parliament-Members of the Houſe of Commons, King *Henry* the Third having never after his Releaſe from that Impriſonment allowed any.

The 16th day of the ſame Month of *February*, in the Year

aforeſaid *Gilbert de Clare* Earl of *Glouceſter* and *Hertford*, abſenting himſelf from the Army upon ſome Diſcontent in a Diſlike of the ſaid Earl of *Leiceſter's* actions and courſes, a Writ was ſent unto him in the King's Name as followeth.

f *Anno* 49 *H.* 3. m. 23. Ro. claus. *Rex* Gilberto [f] *de* Clare *Comiti* Glouceſtr' & Hertford' *ſalutem. Cùm hac inſtante die Jovis in Craſtino* Cinerum *ſuper liberatione* Edwardi *Primogeniti Noſtri finalem habere velimus tractatum, vobis mandamus in fide homag. & dilectione quibus Nobis tenemini firmitèr injungentes, Quòd omnibus aliis prætermiſſis ſitis ad Nos die Jovis prædictâ Nobiſcum ſuper hoc tractaturi & conſilium veſtrum impenſuri, ne retardatio liberationis ipſius vobis per moram & abſentiam veſtram ad diem illum meritò poſſit vel debeat imputari, quòd nullatenùs velle deberetis, & hoc ſicut Nos & Honorem noſtrum & veſtrum ac tranquillitatem Regni Noſtri nec non prædicti filii Noſtri Liberationem diligitis, nullo modo omittatis. Teſte Rege apud* Weſtmonaſterium *decimo ſexto die* Februarii.

g Ro. claus. 49. *H.* 3. m. 9. The 25th. day [g] of that *February* a *Memorandum* was entred in the form following, *viz. Die Mercurii. prox. poſt feſtum S^i* Petri *ad Cathedram recepit Dominus Rex ſigillum ſuum à Magiſtro* Johanne *de* Chiſhull *Archidiacono* London, *& illud commiſit* Thomæ *de* Cantilup *ſicut continetur in Rotulo patentium hujus anni. Teſte Rege apud* Weſtm' 25. *die* Februarii.

The 3d of *March* next following *Roger de Mortuomari* for a ſmall time pretending to ſubmit *ad pacem Domini Regis*, as they that had diſturbed it would have it to be believed, had Writs to the Subjects of *Herefordſhire* and *Shropſhire* not to moleſt him, or his Tenants, *viz.*

h Ro. claus. 49. *H.* 3. m. 9. *Rex Vicecom'* Heref. [h] *ſalutem, Cùm* Rogerus *de* Mortuomari *nuper ad pacem noſtram venerit, & propter hoc hominibus ſuis in guerra in Regno Noſtro ſuper mota ſecum exiſtentibus gratiam facere velimus, tibi præcipimus quòd omnes homines prædictos quos pro eo quòd in guerrâ prædictâ cum ipſo fuerunt capi vel attachiari feciſti ſine dilatione deliberari fac: Nec ipſos de cætero ob cauſam prædictam occaſionari fac, niſi ipſos pro aliquo delicto ante Guerram vel poſt Guerram prædictam ſeu pacem Noſtram proclamatam ab eiſdem commiſſo ceperis vel attachiari feceris, pro quo ſecundum conſuetudinem Regni Noſtri deliberari non debeant. Teſte Rege apud* Weſtm' *tertio die* Martii. *Eodem modo mandatum eſt Vicecomiti* Salop. *pro hominibus ejuſdem* Rogeri. *Per Regem & conſilium.*

Robert de Ferrers Earl of *Darbie*, a man of great Power and Revenue, not keeping pace with their deſignes, but falling roughly upon ſome of his Tenants that adhered unto them, *Ada de Tybetot* complaining, had by the King *concilio Baronum* the

the Mannor of *Thorpe* in *Leiceſterſhire* reſtored unto her, for that it was never the Intention of the Barons, as they ſaid, that any Women, eſpecially Widows, not being guilty, ſhould ſuffer in that Warr, by a Writ ſent unto *Nicholas de Haſtings* who held the Lands of the ſaid Earl of *Darby* upon ſeizure and ſequeſtration, *ſub hac forma* of the date aforeſaid, *viz.*

Rex Nicho. *de* Haſtings *Cuſtodi terrarum* Roberti *de* Farrar' *Com.* Derb. *ſalutem. Monſtravit nobis* Ada *de* Tibetot *graviter conquerendo, quòd præfat' Com. occaſione Turbationis habitæ in regno Noſtro Manerium prædictæ* Adæ *de* Thorp. *cum ſuis pertinentiis in Com.* Leic. *occupavit & ſibi detinuit ad ejus grave dampnum & jacturam manifeſtam; quod quidem Manerium unà cum aliis terris præfat' Com. nunc eſt in manu Noſtra, ut dicitur, quia verò Noſtræ nunquam extitit intentionis aut Baronum noſtrorum, quòd aliquæ Mulieres, & præcipuè Viduæ, dampnum aliquod vel jacturam incurrere deberent occaſione Turbationis prædictæ, niſi illæ quæ turbationis illius Participes extiterint, vobis de Concilio Baronum prædictorum mandamus, quòd inquiſita ſuper hoc plenius veritate ſi præfatam Viduam de Manerio ſuo prædicto per eundem Com. ejectam inveneritis, ut prædictum eſt, & ſi ipſa de prædicta turbatione in nullo culpabilis extiterit, tunc eidem Viduæ de eodem Manerio cum ſuis pertinentiis Seſinam ſuam rehabere fac. Teſte Rege apud* Weſtm' 3. *die Martii per Juſtic.* P. *de* Monteforti, R. *de* S^ti^ Johanne, & Adam *de* Novo Mercato.

The 5^th.^ day of that *March* the like Writ was ſent to the ſaid *Nicholas Haſtings*, to reſtore the Princeſs *Elianor* Wife to the Prince the Mannor of *Aſhford* in the *Peake*, which being aſſigned to her, the ſaid Earl had entred upon, for that it was never the King's and the Barons intentions, that Women not guilty ſhould ſuffer by theſe Wars in which they had not offended, in the form following.

Rex Nicho' *de* [i] Haſtings *Cuſtodi ſuo terrarum* Roberti *de* Ferrar *Comitis* Derb. *Salutem. Cùm* Edwardus *filius noſter kariſſimus dudum ante turbationem habitam in Regno Noſtro Manerium ſuum de* Arkeford *in* Pecco *cum pertinentiis* Elianor' *Conſorti ſuæ ad cameram ſuam aſſignaverit, quod quidem manerium præfatus Comes occaſione turbationis prædictæ nuper occupavit, ac Noſtræ nunquam extitit Intentionis vel Baronum noſtrorum, quòd Mulieres quæ participes non extiterint prædictæ turbationis dampnum vel jacturam aliquam debeant incurrere; cùmque prædicta* Elianora *in nullo culpabilis ſit de turbatione prædicta, vobis de Conſilio prædictorum Baronum mandamus, quòd eidem* Elianoræ *de Manerio prædicto quod unà cum prædictis terris præfati Comitis nunc eſt in manu Noſtra, ut dicitur, Seiſinam ſuam rehabere fac. Teſte Rege apud* Weſtmonaſterium *quinto die Martii.* *Per Conſilium.*

[i] Ro. claus. 49 H. 3. m. 8.

The

The 16th day of that *March* Mandates were ſent by the King to *Roger de Shurland, Guncelin de Badylmer, Simon de Crey, & quibuſdam aliis*, to come to him upon *Palm-Sunday*, whereſoever he ſhould then be in *England*, viz.

Mandatum eſt Rogero *de* Shirland, *in fide & dilectione quibus Regi tenetur firmitèr injungendo, quòd modis omnibus ſine omni dilatione veniat ad Regem, ità quòd ſit ad* R. *die Lunæ prox. ante inſtantem diem dominicam* Palmar' *ad ultimum ubicunque tunc Rex fuerit in* Anglia *cum Rege locutur', & hoc nullo modo omitt. Teſte Rege apud* Weſtmon' 16. *Martii.*

Eodem modo mandatum eſt Gunſelmo *de* Badilmer, Simoni *de* Crey, *& quibuſdam aliis.*

Roger *de* Mortuo Mari and other Lords of the Marches of *Wales*, being by the King at his being at *Worceſter de Conſilio Baronum qui ſunt de conſilio Regis*, ordered to go into *Ireland* at *Chriſtmas* next following, according to the Inſtructions given by the King, and his Barons, which time was afterwards Prorogued until *Mid-Lent*, and from thence until Eight dayes after *Eaſter*, the King commanded them all buſineſs laid aſide to be at *Cheſter*, ready to go thither as the Writt enſueing required, *viz.*

k Ro. claus. 49 *H.* 3. *m.* 7. *Rex* Regero *de* Mortuomari *Salutem.* k *Cum nobis nuper exiſten' apud* Wigorn' *de Concilio Baronum qui ſunt de Concilio Noſtro prefixerimus vobis & aliis Commarchionibus veſtris viceſimum diem poſt* Feſtum natale Domini *Annoque &c.* 49. *ad transfretand' in* Hibernia *in forma per* Nos *& Barones Noſtros & vos proviſa ibidem & ob certas cauſas terminum illum poſtmodum prorogaverimus de gratia noſtra ſpeciali uſque ad mediam quadrageſimam proximo ſequentem & ſimiliter terminum dictæ mediæ quadrageſim' prorogavimus uſque ad* Octabis Paſchæ prox' *futur', ità tamen quòd tunc parati ſitis proficiſci ad partes* Hiberniæ *informa ſupradicta, Nos hijs quæ honorem & commodum veſtrum contingunt proſpicere cupientes in hâc parte vobis mandamus firmitèr injungentes, quòd omnibus negotiis prætermiſſis modis omnibus ſitis apud* Ceſtr' *in* Octabis *prædictis parati proficiſci ad partes* Hiberniæ *in forma ſupradicta, & hoc ſicut honorem veſtrum diligitis nullo modo omittatis. Teſte* R. *apud* Weſtm' 19°. *die Martii.*

Per totum Concilium.

John the eldeſt Son of the Duke of *Britain*, having Married the Kings Daughter, and ſent his Ambaſſadours unto him upon ſome Propoſitions made unto the King, an Anſwer was returned thereunto, That as the King intended to ſhew unto him all Affection and Favour, that could be expected from him,

in

in which Reſolution *terræ ſuæ Magnates* were willing to be conſenting, ſo as he would manifeſt himſelf Faithful in its defence *cum Magnatibus prædictis*, which will require his preſence which was much deſired with a ſafe Conduct, or otherwiſe that he would ſend his Procurators, ſufficiently inſtructed to that end, as the Writ declared.

Rex [l] J. *Primogenito Duci* Britan' *ſalutem. Auditis & plenius intellectis hijs quæ Nuntij veſtri nuper cum Literis veſtris de Credentia ad præſentiam* Noſtram *deſtinati ex parte veſtra proponere voluerunt coram* Nobis *ſupere iſdem cum Magnatibus terræ* Noſtræ *deliberatum concilium & tractatum habuimus diligentem, porrò in hoc* Noſtra *reſedit deliberatio, ut* Nos *qui promiſſa* Noſtra *ſeu conventiones vobiſcum habitas irritas facere non intendimus, non ſolum in hiis quæ juris veſtri ſunt veſtra cum affectu exaudiamus deſideria, ſed & ultra cùm facultas ſe optulerit etiam de proprio gratiam vobis facere debeatis ſpecialem ad quæ per filiæ* Noſtræ *copulam affinitas dudum inter* Nos *contracta, nec non & veſtra merita Probitatis ſpecialitèr* Nos *inducunt in quo etiam affectionis* Noſtræ *propoſito prædictos terræ* Noſtræ Magnates Nobiſcum *conſentientes invenimus & concordes; dum tamen* Regni Noſtri *fidelem vos exhibere & ad ejuſdem defenſionem cum* Magnatibus Noſtris *prædictis manum viriliter extendere volueritis adjutricem, ſicut prædicti* Nuntii *veſtri vobis plenius referre poterunt unâ voce quod negotium conſummandum ſimul & roborandum, veſtram prout citius hoc commode facere poteritis, deſideramus præſentiam,* Noſtras *de ſecuro Conductu vobis Literas tranſmittentes, quòd ſi quo minus perſonalitèr hoc facere poſſitis, quod nollemus caſu aliquo fueritis impediti tales & tàm ſufficienter inſtructos loco veſtro Procuratores tranſmittatis, qui in omnibus quæ negotium requirit, eandem quam ſi ibi præſentes eſſetis à vobis habeant poteſtatem.* T. R. *apud* Weſtm' 27 *die* Martii.

Per Regem & totum Concilium.

[l] Ro. claus. 49 H. 3. m. 8.

Idem J. *habet Literas de Conductu prout patet in rotulo Patentium ſub eadem Data.*

Henry de Boreham (a Judge) being Excommunicated by the Biſhop of *London*, the King by the Writ following commanded him not to intermeddle in any buſineſs, untill he ſhould be abſolved.

Rex Henrico *de* Boreham *Salutem.* [m] *Quia Nobis eſſet verecundum et vobis minimè tutum, ſi alicui miniſterio quod ad regiam Dignitatem vel Regimen regni Noſtri pertineat immiſceritis ad præſens, cum ad denuntiationem venerabilis Patris H.* London *Epiſc. intellexerimus, quòd meritis veſtris exigentibus ſententia Excommunicationis eſtis innoditi, vobis mandamus, quòd ad prudentiùs quod poteritis vos*

[m] Ro. claus. 49 H. 3. m. 5.

ab

ab hujuſmodi miniſteriis ſubſtrahatis, donec beneficium Abſolutionis obtinueritis. T. R. *apud Glouceſt.* 20 *Die* Aprilis.

Per Juſtic. et al' de Conſilio apud Glouceſt.

The Caſtle of *Bamburgh*, with other Caſtles, being as Pledges for Prince *Edwards* true Impriſonment, put into the cuſtody of *Gilbert de Clare* Earl of *Glouceſter* and *Hertford* and *Robert de Neville*, and the ſaid Earl having promiſed to deliver up the ſaid Caſtle, and to cauſe the ſaid *Robert de Neville* to appear in the Kings Court, and anſwer his not doing it, and the Earl being afterwards commanded to deliver up the ſaid Caſtle, returned anſwer, That he could not do it, for that he was in *Wales*, defending his own Lands and Eſtate, againſt his Enemies; the King notwithſtanding commanded him to come unto him, and render the Caſtle, or give order to ſome that might do it, as the Writ bearing date the 6th day of *April*, in the year aforeſaid, directed.

Rex dilecto & fideli ſuo Gilberto *de* Clare *Comiti* Glouceſt. & Hertford *Salutem*, [n] *Cùm vos &* Robertus *de* Nevill *cui Caſtrum Noſtrum de* Bamburgh *dudum commiſſimus, quod* Edwardo *primogenito Noſtro ità cum quibusdam aliis Caſtris Noſtris jam commiſimus tradenda in Oſtagium, tàm pro ipſo quàm pro Pace in regno noſtro tenenda, prout in forma inter* Nos *& Præfatum Filium noſtrum & Barones prædictos proviſa & conceſſa pleniùs continetur, in præſentiâ Noſtrâ & Magnatum noſtrorum qui ſunt de Conſilio Noſtro bona fide ſuper omnia quæ in Regno Noſtro tenetis permiſeritis reddere nobis caſtrum prædictum, & habere præfatum* Robertum *coram Nobis ad ſtandum recto in Curiâ Noſtrâ ſicut vos ipſi plenius noſtis, per quod vobis nuper mandavimus, quod omnibus negotiis prætermiſſis aliquem de veſtris plenam poteſtatem habentem reddendi Nobis Caſtrum prædictum ad Nos indilatè mitteretis, & jam Nobis reſcripſeritis, quod hoc facere nequiviſtis propter Moram veſtram in partibus* Walliæ *ad defenſionem terrarum veſtrar', contra* Wallen' *inimicos veſtros Nos excuſationem illam minus ſufficientem reputantes, maximè cum aliquem de veſtris qui ad arma non intendit ad* Nos *miſiſſe potuiſſetis, qui nomine veſtro & præfati* Roberti *plenam haberet poteſtatem reddendi Nobis Caſtrum prædictum, vobis iteratò mandamus, in fide & dilectione quibus* Nobis *tenemini firmitèr injungentes, quòd vos ipſi in propria perſona veſtra ad* Nos *ſine omni dilatione accedatis, Caſtrum prædictum nobis reddituri, vel talem loco veſtro mittatis qui plenam habeat poteſtatem reddendi* Nobis *Caſtrum prædictum in forma ſupradicta, & hoc ſub pœna prædicta nullatenùs omittatis. Teſte Rege apud* Weſtm' 6° *die Aprilis, per Com.* Leic. *Juſtic.* P. *de* Monteforti, R. *de* Sti Johanne, *& alios de Conſilio.*

[n] Ro. claus. 49 H. 3. m. 6.

The

The first day of *May* in the Year aforesaid, the said *Henry de Borham* not abstaining from the Office and business of a Judge, whilst he continued under the sentence of Excommunication aforesaid, the King commanded him not to intermeddle therein, until he should be absolved, as the Writ following signified.

Rex Henrico *de* Borham *salutem.* [o] *Quia per Assertionem venerabilis Patris H.* London *Episc. intelleximus, quòd meritis vestris exigentibus Excommunicationis sententia estis innodati, per quod ab omnibus arctius vitari debetis, nolumus quòd Placitis Nos sequentibus aut aliis quibuscunque placitis Nostris intendatis, nec quod de aliquo quod ad Justic. pertinet vos intromittatis, donec beneficium Absolutionis merueritis, & aliud à Nobis receperitis in mandatis. Teste Rege apud* Glouceſter *primo die* Maii. *per R. Com.* Leic. *Justic. & omnes de Consilio tunc aqud* Glouceſter *existentes.*

[o] Ro. Claus. 49 H 3. m. 5.

The 5th day of that *May* a *Memorandum* was entred upon the close Rolls of the *Chancery* in these words, *viz.*

Die Jovis prox. post festum S^ti Johannis *ante portam Latinam hora prima Magister* Thomas *de* Cantilup *Cancellarius Regis tradiderit* Rand' *de* Sandwic. *custod' de* Garder. *Regis sigillum Domini Regis in præsentia ipsius Domini Regis assistentibus* Hug. *Le* Despencer *Justic.* Angliæ & Petro *de* Monteforti *custodiend' usque ad reditum ipsius* Thomæ *sub hac formâ, viz. Quod idem* Rad' *sigill. in* Garder' *Regis custodiat sub signo alicujus infrascript'* P. *de* Monteforti, Rogero *de S^to* Johanne & Egidii *de* Argentin *vel alicujus eorum. Et quòd Signo signantis facto signabit idem* Rand' *brevia illa quæ sunt de cursu in ipsius præsentia, si abesse voluerit, ea tamen quæ sunt de præcepto non nisi in præsentia Signantis sigillabit, & de ejus assensu & brevibus tàm de cursu quàm de præcepto sigillum Regis sub sigillo suo & eodem sigillo Regis subsignato idem* Rand' *tunc reportet in* Garder' *prædict. & sic illud usque ad reditum ejusdem* Thomæ *custodiet in* Garder' *Regis, & ista facta fuerit apud* Glouceſter 5° *die* Maii.

The Prince having the Command of the *Judaisme* or Bank of the usuring *Jewes*, as also the Mannor, Town, and Castle of *Stamford* assigned unto him, and being about the 30th day of *May* in the Year aforesaid escaped out of the Castle of *Hereford*, where he had been long a Prisoner, the King continuing a Prisoner to his Rebel-Barons, to save his own life did command the *Treasurer* and *Chamberlaines* of the Exchequer, that taking with them *Thomas Cantelup* his *Chancellour*, they should collect for his use the Tallage (or Tax) lately laid upon the Judaisme, and to remove *Adam de Winton* and *Thomas de Cropp* two of their Justices, and put into that Office *William Haselbeck*

and command the ſaid Juſtice not to obey the Prince his Son, and prohibit all the *Jewes* in *England* to do the like, for that the Prince his Son, *Spreto concilio* of the King and his faithful Barons, *ſubitò & inopinatò* had joyned himſelf to the Rebellious Party to diſturb the Peace of the Kingdom.

p Ro. Pat. 49 *H.* 3. m. 4. *Rex Theſau. & Camerariis* p *ſuis ſalutem. Quia* Edwardus *Filius Noſter cum* Judaiſmum *veſtrum ſicut noſtis ad tempus commiſimus, Noſtro prorſus & Magnatum & fidelium Noſtrorum ſpreto Conſilio* Subito & ex inopinato *jam receſſit ad quoſdam Rebelles Noſtros ſe transferendo, qui Nos gravare & pacem Regni Noſtri perturbare proponunt, dictum* Judaiſmum *cepimus in manum Noſtram, & ideò vobis mandamus, quòd aſſumpto vobiſcum Magiſtro* Thom' *de* Cantilupo *Cancellario Noſtro, ſi adhuc* London' *exiſtit, Talliagium nuper aſſeſſum ſuper* Judaiſmum *prædict: per* Thomam *de* Ippegrave *ad hoc aſſignatum per prædictum Filium Noſtrum videri & illud ad opus Noſtrum colligi & ſalvo cuſtodiri fac. donec aliud inde præcipimus,* Adam *vero de* Winton *ſocium* Roberti *de* Cropp' *ab Officio ſuo amoveatis, & loco ſuo* Will' *de* Haſelbech *ſubſtituatis, ità quod iidem* Will'. & Robertus *Officio Juſticiariæ* Jud' *à modo intendant donec aliter inde duxerimus ordinandi & eiſdem Juſtic. firmitèr injungatis ex parte Noſtra, nè præfato Filio Noſtro vel ſuis in aliquo intendant, & quod ab omnibus* Judæis Angl. *hoc idem ſcire faciant, & hoc non omittatis. Teſte Rege apud* Herefordiam *triceſimo die* Maii.

And the ſame day, having been enforced to ſtile his Loyal Barons Rebels, ſent his Writs to the Sheriffs of *Herefordſhire, Shropſhire,* and *Staffordſhire* to proclaim, that no Faires and Markets ſhould be kept within their Liberties, and Baylewicks, untill he ſhould give further Order, and that all Victuals to be ſold ſhould be brought to *Hereford,* or whereſoever the King ſhould be, in theſe words.

q Ro. Pat. *H.* 3. 49. m. 4. *Rex Vicecom'* Hereford *ſalutem.* q *Præcipimus tibi firmitèr injungentes, quòd per totam Ballivam tuam firmitèr inhibere fac. ex parte Noſtra, nè aliquæ Feriæ vel Mercata de cætero teneantur in Balliva prædicta, donec aliud inde mandavimus, ſed ubiquè proclamari fac. ex parte Noſtra, quòd omnia Victualia venalia ad Nos uſque* Hereford *veniant, & exindè Nos ſequantur. & talitèr te habeas in hoc mandato Noſtro exequendo, quòd diligentiam tuam meritò commendare poſſimus.* T. *ut ſupra. Eodem modo mandatum eſt Vic.* Salop. & Staff.

And directed another Writ for the ſeizing of the Town and Caſtle of *Stamford* which was the Princeſs's as followeth, *viz.*

r Ro. Pat. 49 H. 3. m. 4. *Rex* Thomæ *de* Blund *Cuſtodi terrarum* Thomæ *de* Ferrar' *ſalutem,* r *Quia* Edwardus *filius Noſter cui villam de* Stamford *unà*

cum

cum Caſtro ejuſdem villæ nuper commiſimus habendam ad Bene placitum Noſtrum, ſicut noſtis, Noſtro prorſus & Magnatum ac fidelium Noſtror' ſpreto conſilio Subito & inopinato *jam receſſit ad quoſdam Rebelles Noſtros ſe transferendo, qui Nos gravare & pacem Regni Noſtri perturbare proponunt, vobis Mandamus firmiter injungentes, quòd Villam prædictam ſine dilatione capiatis in manum Noſtram & eam ſalvo cuſtodiatis, ità quòd de exitibus inde provenientibus Nobis reſpondeatis. Teſte, ut ſupra.*

The King being inforced to make [s] in his name (*Hutess* and *Clam'* as it were) an *Hue* and *Cry* againſt his own Son upon his fortunate Eſcape, ſent the ſame day notice unto *John de Eynill*, a Judge and a man much adhering to the Barons and truſted by them, of the Prince's Eſcape from his Impriſonment at *Hereford*, and believing that he would apply himſelf to *John de Warren, William de Valence* and others diſaffected in *Pembrokeſhire* and the *Marches* of *Wales* (as in the Language of ſome in thoſe Rebellious times they were then phraſed) and thence to go beyond the Seas unleſs prevented, commanded him *in fide & homagio*, and under the Forfeiture of all that he had, that *cum equis & armis, & toto poſſe ſuo ſub omni feſtinatione*, he ſhould come to Him at *Worceſter* to march againſt his Enemies.

[s] *Elſing's* manner of holding ancient and moderne Parliaments.

Et eodem modo commanded all that held of him in *Capite*, as well Earls, Barons, Knights, as Biſhops, Abbots, and Priors, thoſe only excepted which were of the Earl of *Glouceſter's* Party, in manner following, *viz.*

Rex Johanni *de* Eynill *ſalutem. Cùm Nos & quidam Magnates & Fideles Noſtri in partibus* Hereford [t] *circà tranquillitatem & pacem Partium illarum jampridèm agentes pro viribus laboravimus, prout ſtatus partium earundem requirit, ſperantes* Edwardum *filium Noſtrum ad hoc Adductorem præcipuum & ferventiorem præ cæteris inveniſſe, Idem* Edwardus *die Jovis in Ebdomade* Pentecoſtes *circà horam veſpertinam à militum Comitiva quos ſecum adſpaciandos extra* Hereford *duxerat, cum duobus Militibus & quatuor Scutiferis propoſiti ſui conſciis* Spreto concilio Noſtro & Magnatum *& fidelium Noſtrorum prædictorum* Subito & ex inopinato *receſſit, volens ut pro certo credimus ſe ad* Johannem *de* Warrennia *&* Willielmum *de* Valencia *& Complices ſuos qui nuper abſque conſcientiâ Noſtrâ & voluntate, & contra pacem Noſtram applicuerunt in partibus* Pembrochiæ, *ac etiam ad quoſdam Marchiones Rebelles Noſtros & pacis Noſtræ Perturbatores tranſferre, ut exinde partes adeat tranſmarinas vel alios illuc mittat, qui adventum Alienigenarum in regnum Noſtrum per partes* Pembrochiæ, *cùm alibi non pateat eis aditus, ad Noſtram & Regni Noſtri*

[t] Ro. claus. 49 *H.* 3.

confuſionem procurent; & quia præfati Rebelles Noſtri, licet adhuc pauci exiſtant, per hoc poteſtatem & vires ſuas augere poſſent, niſi eorum inſolentia antèquam ulterius invaleſcat citiùs reprimatur, Nos de veſtrâ & aliorum fidelium Noſtrorum fidelitate & conſtantia ſpecialitèr confidentes, vobis Mandamus in fide, homagio, & dilectione quibus Nobis eſtis aſtricti, & ſub periculo amiſſionis omnia quæ in Regno Noſtro tenetis, ac ſub debito Sacramenti quo omnes & ſinguli de Regno Noſtro ſunt ad hoc ſpecialiter obligati, & quod volumus & firmitèr obſervari injungentes, quatenùs ſtatìm viſis Literis iſtis omnibus aliis prætermiſſis, cum equis & armis & toto ſervitio veſtro Nobis debito, nec non & toto poſſe veſtro *ſub omni feſtinatione de die & nocte uſque* Wygorniam *veniatis, parati exinde in manu forti ire Nobiſcum ſuper inimicos Noſtros prædictos, & hoc ſicut Exhæredationem Noſtram & veſtram & perpetuam Regni Noſtri Confuſionem vitare volueritis, & vitam propriam diligitis, nullo modo omittatis, nec de ſummonitione exercitûs brevitatem temporis allegetis, quia urgentiſſima neceſſitas tempus non patitur ulterius prorogari, nè inter moras per adventum Alienigenarum quos iidem Rebelles Noſtri expectant, eorundem vires in Noſtri & Regni Noſtri perniciem augeri contingat, qui adhuc dum paciſci exiſtunt de facili Nobis poterunt ſubjugari. Teſte Rege apud* Hereford *triceſimo die* Maii.

Eodem modo ſcribitur omnibus Tenentibus *de Rege* in Capite *tàm videlicet Epiſcopis, Abbatibus, Prioribus, quàm Comitibus, Baronibus, Militibus, & omnibus aliis, exceptis illis qui ſunt pro parte Comitis* Glouceſtriæ.

Robert de Ferrers Earl of *Darby*, having threatned to burn and ſpoyl the Lands and Eſtate of the Abby of *Bildwas*, and made the Abbot to pay him a Fine of 100 Marks for the Redemption thereof, a Writ was ſent to *Thomas le Blund*, who had in Sequeſtration the Lands of the ſaid Earl of *Derby*, that he ſhould out of the Iſſues and Profits thereof pay unto the ſaid Abbot and Covent the aforeſaid 100 Marks in theſe words, *viz.*

u Ro. Pat. 49 *H.* 3. m. 4.

Rex Thomæ *le* Blund *Cuſtodi terrarum* Roberti *de* Ferrar' *Comitis* Derby *ſalutem.* u *Cùm tempore turbationis nuper habitæ in Regno Noſtro præfatus Comes minatus fuerit Abbati & Conventui de* Bildewas *de incendio domorum & deprædatione bonorum ſuorum, per quod idem Abbas & Conventus metu ducti finem fecerunt per centum Marcas cum Comite predicto, quas eidem ſolverunt, ut accepimus; Nos eorum paupertati pio compatientes affectu, & eis gratiam facere volentes in hac parte vobis mandamus, quod de exitibus terrarum & tenementorum prædictorum eiſdem Abbati & Conventui centum Marcas habere facias, in recompenſationem centum Marcarum prædictarum, & hoc nullatenùs omittatis.* T.R. *apud* Hereford 1° *die* Junii.

The

The ſame firſt day of *June*, the King being carried along with the Rebel-Army Captive to *Hereford*, and having commanded all that held of him in *Capite* to attend him there *cum equis & armis*, iſſued out his Writ or Proclamation to *Gilbert de Preſton*, and the reſt of the Juſtices of the Court of his Bench, to Surceaſe all Pleas and Proceedings, to the end that none be damnifyed in any Actions at the preſent depending before them, *Super Brevia*, and that all things may remain as they were before, untill the King ſhould give further Order, as the Writ or Proclamation imported.

Rex Gilberto *de* Preſton' [w] *& ſociis ſuis Juſticiariis ſuis de* Banco *ſalutem*, [t] *Quia pro arduis & urgentiſſimis Noſtris & Regni Noſtri negotiis jam vocari fecimus omnes qui de Nobis tenent in Capite, quòd cum equis & armis, cum ſervitio ſuo Nobis debito, nec non & toto poſſe ſuo quod perquirere poterunt ad Nos omnibus aliis prætermiſſis in partibus ubi nunc agimus feſtinanter accedant, facturi quod eiſdem duxerimus injungendum, propter quod ipſi perſecutioni vel defenſioni Loquelarum ſuarum quæ ſunt coram vobis per Brevia Noſtra ad præſens intendere non poſſunt, Volumus quòd omnia Placita de* Banco *remaneant in eodem ſtatu in quo nunc ſunt, donec aliud inde præcepimus; & ideò vobis Mandamus quòd hoc publicè proclamari faciatis. Teſte Rege apud* Hereford 1° *die* Junii *per ipſum Regem, Juſticiarium, & alios de Conſilio.*

[w] Ro. claus. 49 *H.* 3. *m.* 3.

Teſte Rege apud Heref. 1° *die* Junii.

The fourth day of that *June* in the year aforeſaid, a Writ or Commiſſion was in the impriſoned Kings Name ſent unto the Mayor, Bayliffs, and Citizens of *Briſtol*, mentioning, That the Prince his Son, contemning the Councell of him and his Barons, had joyned with his Rebels (for ſo they would ſtyle his more faithful Subjects) and endeavoured to go beyond Seas to bring in Forreigners, and to make out Warrants and Precepts in the Name of the King, pretending it to be well pleaſing unto him, *quod abſit*, (ſay that diſtreſſed Kings Commanders and Tutors againſt his will) and make him break his Oath and Peace made for the good of the Kingdom, and to withdraw his Subjects from their Obedience, commanded them to Obey his well beloved and faithful *Simon de Montfort* Earl of *Leiceſter* and *John la War'* Subconſtable of the Caſtle of *Briſtol*, or their Subſtitutes, *cum equis & armis & toto poſſe ſuo*, as they tendred his Good and their own Eſtates, and in no manner of way to yield any Obedience to the *Prince* his Son contrary to his command; and for that he had been given to underſtand, that ſome ill-minded People have falſely ſuggeſted

ed, that he hath not been made privy to what hath been done in his Name required them to ſend 10. or 12. of their diſcreeteſt and moſt honeſt Citizens to him to be better informed of his Will and Pleaſure therein, and that in the mean time ſtrongly guarding the ſaid Town and Caſtle, they do not ſuffer his ſaid Son or any on his behalf to enter therein, as the Writ hereunto Subjoyned dated at *Hereford* will declare, *viz.*

x Ro. Pat. 49 *H.* 3. m. 14.

Rex dilectis & fidelibus ſuis, Maiori, Ballivis *& probis Hominibus* x *ſuis* Briſtoll. *ſalutem. Cùm* Edwardus *filius Noſter Noſtro & Magnatum Noſtrorum ſpreto Conſilio ſe ad quoſdam Marchiones ac etiam alios inimicos & Rebelles Noſtros tranſtulerit, ut ſic partes adeat tranſmarinas, vel alios illuc mittat qui Alienigenas in Regnum Noſtrum ad Noſtram & ejuſdem Regni Confuſionem introducant, niſi ipſius temeraria Præſumptio citius reprimatur; ac idem* Edwardus *nomine Noſtro diverſa facit Mandata fingendo ea Nobis complacere, quod abſit quòd hujuſmodi Mandata contra Sacramentum Noſtrum & ſuum, & pacem in Regno Noſtro communiter juratam exiſtant, ut ſic corda veſtra & aliorum fidelium Noſtrorum à fidelitate Nobis debitâ avertant, Nos de veſtræ fidelitatis conſtantiâ quam ergà Nos hactenùs indefeſſè geſſiſtis plenam gerentes fiduciam vobis Mandamus in fide & dilectione quibus tenemini rogantes & firmiter injungentes, quatenùs dilecto & fideli Noſtro* Simoni *de* Monteforti *Comiti* Leyceſtriæ *&* Johanni *la* War' *Subconſtabulario ſuo Caſtri prædicti vel* Ballivis *ſuis ibidem tam equis & armis & toto poſſe veſtro in omnibus quæ ad cuſtodiam Caſtri prædicti pertinent auxiliantes ſitis & conſulentes, ità quòd fidelitatem etiam commendare debeamus, & hoc ſicut honorem Noſtrum & vos & corpora veſtra & omnia quæ tenetis in regno Noſtro diligitis nullo modo omittatis, Mandatis præfati Filii Noſtri in nullo obtemperantes contra mandatum Noſtrum prædictum; & quia intelleximus quòd æmuli quidam Noſtri vobis falſa ſuggerunt, quòd hujusmodi mandata Noſtra â Noſtrà conſcientiâ non emanant placeret Nobis, quòd decem vel duodecim de probioribus & diſcretioribus hominibus Villæ Veſtræ ad Nos accederent Voluntatem Noſtram ſuper hoc pleniùs audituri, nihilominùs etiam circa cuſtodiam Villæ veſtræ prædictæ tàm virlitèr & ſtrenuè vos habeatis prout alias vobis mandatum, quòd nec præfatus Filius Noſter nec aliqui ex parte ſua Villam prædictam ingrediantur, ſeu aliquatenùs in Villâ prædict' receptenter,* T. R. *apud* Hereford *quarto die* Junii.

The King being at *Hereford* the 12th day of that *June* in the year aforeſaid, complaining that his Son adhered (as *Symon Montfort* and his Partners conſtrained him to ſay) to his Rebells, and did publiſh themſelves to be zealouſly willing

ling to keep the Peace and Agreement which had been made by the Conſent of him and the whole Commonalty of the Kingdom, (which if not comprehended in the Nobility, which certainly they believed, was then a great Untruth neither poſſible or probable) and in regard that the Biſhop of *London* was a Witneſs to the ſaid Agreement, and beſt acquainted with his actions therein, which might manifeſt who hath been moſt deſirous of a Peace, commanded him and all the reſt of the Prelates without delay to come to adviſe with him at *Glouc.* The like Writ being ſent unto the Biſhops of *Wincheſter*, *Ely*, *Cheſter*, *Salisbury*, *Coventry*, and *Lichfield*, *Bath* and *Wells* with this addition, *viz.* And becauſe under a colour of Truth they did all that they could to draw unto them the hearts of the People, and that by the Teſtimony of the King himſelf, and of them and the reſt of the Prælates, although the truth will appear, that it was not the King but thoſe Rebells (for ſo in dread of his own and of his Son's Murder and Death he was neceſſitated to call them) that cauſed thoſe Troubles and Diſcords, concerning which they were to make all haſt, as the Writs themſelves *Sub hâc formâ* did import.

Rex Epiſcopo London *ſalutem. Quot & quantos labores Nos & vos & alii Prælati ac etiam Magnates Noſtri pro pace Regni firmanda, & liberatione* Edwardi *filii Noſtri ſuſtinuerimus, benè noſtis, per cujus ſiquidem liberationem tumultuoſis credamus pacem dediſſe negotiis quæ jam majori ſtrepitu recidivant, idem enim* Edwardus *Noſtro & fidelium Noſtrorum ſpreto conſilio, ſicut vobis & Prælatis prædictis jampridèm ſignificavimus, quibus Rebellibus Noſtris jam adhæret qui ſe Regii Honoris nec non Tranquilitatis & Pacis totius Regni præcipuos dicunt eſſe Zelatores, & Ordinationes nuper* London (which have been yet inviſible) *de Noſtro, & dicti filii Noſtri ac totius Communitatis Regni Noſtri Aſſenſu unanimi confectas concorditèr & approbatas in omnibus ut aſſerunt obſervare volentes, unum Voce prædicant, & aliud Opere manifeſtant; & quia de Noſtro Propoſito & Voluntate, & etiam de Actibus ipſorum circà præmiſſa vobis qui Ordinationum prædictarum conſcii eſtis & teſtes eſſe debetis, ac etiam præcipui Pacis Amatores veritatem patere volumus, evidentèr vobis Mandamus ſub debito Fidelitatis quibus Nobis eſtis aſtricti firmitèr injungentes, quatenùs omni dilatione & excuſatione poſtpoſitis ad Nos ſub omni feſtinatione uſque* Glouceſtriam *accedatis, ſuper præmiſſis* (which ſhews that ſuppoſed Parliament had no long continuance) *Conſilium veſtrum impenſuri; & hoc ſicut honorem Noſtrum & veſtrum diligitis & indempnitati totius Regni proſpicere volueritis nullo modo omittatis, Nos enim hoc idem cæteris Prælatis duxerimus injungendum.* T. R. *apud* Heref. 12. *die* Junii. *Eodem*

Ro. clauſ. 49. H. 3. m. 3.

Eodem modo mandatum eſt Epiſcopis Lincoln, Winton, Ceſtr', Elyen', Sarum, Coventry & Litchfield, Bathon', & Wellen' *cum adjectione ſubſcripta, & quia tantam eorundem Malitiam ſub fictæ veritatis colore per diverſas partes prædicari faciunt, ad commovenda corda populorum veſtrum ſummo cordis affectu peroptamus adventum, ut noſtro, veſtro, & aliorum Prælatorum medianti Teſtimonio veritas prævalere poſſit, & evidenter pateat non Nos ſed præfatos Rebelles noſtros ſubortis jam diſſentionibus clàm præfeciſſe; ut igitur ad honorem Dei noſtram & veſtram & communem Regni Utilitatem veſtro mediante Conſilio quo uti intendimus, poſſint ipſa negotia procedere, greſſus veſtros in quantum poteritis verſus Nos maturetis, nè per moras dictas diſſentiones augeri contingat, ut ſic exitium conſequantur duriorem.*

But whilſt that great Rebell *Montfort*, Brother-in-law to his King and one of the God-Fathers to the Prince his Son, taking himſelf to be too great to be a Subject, and not being able to contain himſelf within the limits of Gratitude and Allegiance, or to reſiſt the Intreagues of the King of *France*, a long before dangerous and profeſt Enemy to his KING and Soveraign, and altogether unwilling to loſe the Opportunity of a Factious and diſcontented part of the *Engliſh* Baronage, driving his Charriot, furiouſly like *Jehu*, though not with ſo good an Authority, impowered as he thought, to make every one come behind him, and believing himſelf to be in ſo firme a league with his Fortune and Security, and aſſiſted by *Lewelline* Prince of *Wales*, who had confederated with him to raiſe a Diſturbance upon the Lands and Eſtates of *Mortimer*, *Clifford*, the Earl of *Glouceſter*, and other Barons *Marchers*, ſo as they might not be in a condition to Aid or Relieve the King; and he needed not dread any danger of loſing the Prey which he had gained, but might make what uſe he would of his haughty and domineering Spirit, give Laws to his Aſſiſting Partners, and not be obliged to keep his Agreement with *Gilbert de Clare* Earl of *Glouceſter* and *Hertford*, about the Dividend of the ſpoil or ſhare of the Regal Power, became Taxed for doing more for his own Particular than the Publick Good, uſurping the Redemption of Priſoners at his pleaſure, and to prolong the buſineſs did not to uſe the means of a Parliament to end it; his Sons alſo, and *Peter de Montfort* his Kinſman (preſuming upon his Succeſs and Greatneſs) growing Inſolent, which made the Earl of *Glouceſter* to deſert him and his Party; and the more Loyal Barons not well pleaſed to have their King led about Captive; and thoſe who had ſo deeply engaged with *Montfort*, [x] for the Proviſions extorted from the

[x] *Dugdales* Baronage in Tit. *Petri de Montfort*, 407, 408, 409. & *Clifford* 337.

King

King at *Oxford*, could not well digeſt ſo great an Affront put upon him and themſelves, and to have the King and Kingdom [y] governed at the Diſcretion of Twenty-four *Conſervators*, after reduced to a much leſſer number, into which every one could not be admitted, calmely conſidering the great Confuſions, Envies and Ambitions, which would happen by ſo (like to be ſo) dangerous and unquiet an Innovation, were content and propounded, That thoſe Ordinances or Proviſions ſhould be made void, and the King reſtored to his former Rights and Condition; but *Peter de Montfort* a Principal Rebel as well as a near Kinſman of *Symon de Montfort*'s with four others oppoſed it, and was made Governour of *Hereford* not long before the Prince's eſcape from his Impriſonment there.

[y] *Mat. Weſtminſter.* 1263

Which was principally contrived by the means of *Roger de Mortimer*, who ſeeing His Soveraign in ſo great a diſtreſs, and nothing but Ruine and Miſery attending himſelf and all other the King's Loyal Subjects, could take no reſt until he had by his Intelligence and Correſpondency held with *Gilbert de Clare* Earl of *Glouceſter*, *William de Valence* Earl of *Pembroke*, newly returned into *England*, the *Lord Clifford*, and other the Loyal Barons [z] Marchers, wrought ſome way for the Deliverance of the Prince, in order to that of the King.

[z] *Dugdale's* Baronage. *tit. Mortimer* 142. *Monaſtic. Anglic.* vol. 2. 223. an 40. 50. 60. & 223. b. m. S. *Oxon'* in bibl. *Bod. med.* 20. 120. b.

Which was in this manner effected; A ſwift Horſe was ſent, as a Preſent to the Prince then Priſoner in the Caſtle of *Hereford*, whither the Army had afterwards brought the King in no better a condition, with intimation that he ſhould obtain leave to ride out for a Tryal, or for Recreation, into a place called *Widmerſh*, and that upon ſight of a Perſon mounted upon a White Horſe at the foot of *Culington* Hill, and waving his Bonnet (which was, as it was ſaid, the Lord of *Croft*, an [a] Anceſtor of the now Biſhop of *Hereford* of that Sir-name and Ancient Family) he ſhould haſt towards him with all poſſible ſpeed; which being ſo accordingly done, as he (though all the Country thereabouts were thither called to prevent his Eſcape) ſetting ſpurs to that Horſe out-rid them all, and being come to the Park of *Culington* was met by *Roger de Mortimer* with five hundred armed men, who turning upon the many Purſuers, chaſed them back with a great ſlaughter to the Gates of *Hereford*; [b] but by *Henry Knighton* and others it is related, that *Roger de Mortimer* having ſent the Prince a ſwift Horſe for that purpoſe, which he obtaining leave of *Peter de Montfort* to try, if he were of uſe for the great Saddle, firſt wearied out other Horſes, and then got on the ſwift Horſe (a

[a] *Ibidem.* 223. n. 10.

[b] *Hen. Knighton, de Eventibus Angliæ.*

Boy with two Swords whom the ſaid *Roger de Mortimer* had ſent being near with another Horſe) and turning himſelf to *Robert de Roſs* then his Keeper, and to others By-Standers ſaid, *I have been in your Cuſtody for a time, but now I bid you farewel*, and ſo rode away; the ſaid *Roger de Mortimer* with his banner diſplayed receiving him at a little Hill called *Dinmore* conveyed him ſafe to his Caſtle at *Wigmore*.

Which did put *Montfort* and his Fellow-Rebels into ſuch a Conſternation and Care of themſelves and the Cuſtody of their Royal Priſoner, as beſides their many Cautions to watch his motions, and ſtop the Princes paſſage into the parts beyond the Seas, a Writ was ſent to the Sheriff of *Herefordſhire* in the King's Name, commanding the moſt of the Gentry of that County (amongſt whom *Hugo de Croſt* [c] was mentioned) to come *Cum equis & armis & toto poſſe ſuo ad defenſionem villæ de* Hereford, and to the King whereſoever he ſhould be, under the pain of Forfeiture of all that they had, and for ever to be diſherited.

[c] Ro. claus. 49 *H.* 3. in *dorſo.*

SECT. VIII.

Of the Actions of the Prince *after his Eſcape, his Succeſs at the Battle of* Eveſham, *Releaſe of the King his Father and Reſtoring him to his Rights.*

PRince *Edward* being thus at liberty, did by the help of *Mortimer*, [d] *Clare* Earl of *Glouceſter*, the Earl *Warren*, *William de Valence* Earl of *Pembroke*, the Lord *Clifford*, and other the Lords *Marchers*, ſoon raiſe a powerful Army, multitudes of the Counties of *Hereford*, *Worceſter*, *Salop* and *Cheſter* coming to his aid, took the Caſtle and City of *Worceſter*, had the Caſtle of *Monmouth* delivered unto him, which he demoliſhed; ſurprized the Town of *Kenilworth* in *Warwickſhire*, whither young *Simon de Montfort* had brought up many of the Northern Barons of that Party to the number of 20 Banners, took no leſs than Thirteen of the chief of them, young *Simon* and others eſcaping into the Caſtle.

[d] *Dugdales* Baronage Tit. *Simon de Montfort* Earl of *Leiceſter.* 757.

In the mean time the ſaid *Symon* Earl of *Leiceſter*, carrying the King along with him as his Priſoner, upon *Lammas* day being the firſt day of *Auguſt*, receiving intelligence that the Prince was at *Worceſter*, and not knowing that *Kenilworth* was taken, marched towards *Eveſham* about break of the day, on purpoſe to meet with thoſe Barons, which his Son had brought

brought out of the North, of which the Prince being advertiſed, advanced ſpeedily after him, and got betwixt him and *Kenilworth*, *Mortimer* and the Earl of *Glouceſter* ſo diſpoſing the Forces which they commanded, as that he was almoſt invironed.

Seeing himſelf therefore in that ſtreight, he forthwith drew out his men, and prepared for Battell, it being then the *Nones* of *Auguſt*, and aſcending the Hill diſcovered Prince *Edward* and his Army on the top thereof, which was divided into three parts; the firſt led by Himſelf, the ſecond by the Earl of *Glouceſter*, the third by *Mortimer*, the buſineſs being ſo ordered, that no other Colours appeared then the Banner of young *Symon* and the reſt taken at *Kenilworth*, which cauſed the Earl to ſuppoſe, that many of them had been of his own Party, but upon further View he underſtood the contrary, for the Prince afterwards took down thoſe Colours, and inſtead of them erected his own and the Earl of *Glouceſters Banners on the one ſide*, and *Mortimers* towards the Weſt, which unexpected ſight cauſed ſuch a Diſcouragement in the Army of the Barons, as that the *Welſh* betook themſelves to flight, and the reſt being over-powerd were totally routed, ſo that few eſcaped the Slaughter: Of thoſe who were Slain and not taken Priſoners, were as to the Principal Perſons *Symon de Monfort* Earl of *Leiceſter* himſelf (whoſe Head, Hands, and Feet being cut off, were ſent to the Lady *Mortimer* then at *Wigmore* Caſtle) *Henry de Montfort* his Eldeſt Son, *Hugh le Diſpencer* then Juſtice of *England*, *Ralph Baſſet* of *Drayton*, *Thomas de Aſtely*, *Peter de Montfort*, *William de Mandeville*, *John de Beauchamp* of *Bedford*, *Guy de Baliol*, and divers other perſons of Quality; with a multitude of the common Sort: Of thoſe that were wounded and taken Priſoners, the Chief were, *Guy de Montfort* a younger Son of the ſaid *Symon de Montfort*, *John Fitz-John*, *Humphry de Bohun* the younger, *John de Veſcy*, *Peter de Monfort Junior*, *and Nicholas de Segrave*; And it was ſaid that when the Earl of *Leiceſter* diſcerned the Form of the Princes Battalia, he ſwore by the Arm of St. *James* (his uſual Oath) *they have done diſcreetly, but this they have learned of me, let us therefore commend our Souls to God, becauſe our Bodies are theirs*; [f] and encouraging his men told them, *they were to Fight for the Law of the Land, yea the Cauſe of God and Juſtice*, and adviſing *Hugh le Deſpencer*, *Ralph Baſſet*, and ſome others to flie, and reſerve themſelves for better times, they refuſed ſo to do, but rather choſe to die with him.

[e] *Mat. Weſt.*

[f] *Mat. Paris.*

Who although he was an Arch-Rebell, and in that a Peſt or Plague unto the Nation, yet the deluded People could not think [f] it enough to honour and follow him in his Life time, but would in the Fame of his ſuppoſed Miracles have worſhipped him for a Saint after his Death, if the King had not prohibited them.

[f] *Daniel* in the life of *Hen.* 3. 181.

SECT. IX.

Of the Proceedings of King Henry *the Third after his Releaſe and Reſtauration until his Death.*

THE long impriſoned and ſadly miſuſed King thus happily releaſed out of his Thraldome, but yet with the Loſs of ſome of his Own, as well as too much of his Subjects Blood, by a Wound caſually received in the battle, was now rid of his Jaylor, whom he feared and hated, as he ſaid himſelf more than any man living, and he that before was forced to write and ſpeak as *Montfort* and the rebellious Barons would dictate unto him, obey their Orders as ſoon as they were propoſed, declare his Son and Loyal Subjects Rebels, and the Rebels his moſt faithful Councel, could like a Bird out of the Snare of the Fowler, when he was at liberty, and had eſcaped their Tyranny, give them their proper Names and Titles, call their whole buſineſs a Rebellion, and made them glad to receive their Pardons, under the Character of his Enemies, [g] as in the Pardons of *John Fitz-John*, *Baſſet*, and others, and with the Victorious Prince, the Redeemer of him and the Kingdom, went to *Wincheſter*, where a Parliament being convoked, all who adhered to *Simon de Montfort*, were diſinherited, and their Eſtates conferred upon others at the King's pleaſure, the Liberties of *London* forfeited and taken from them; in which year that valiant Prince his Son, as [h] *Mat. Paris* hath recorded it, fought a ſingle Combat with *Adam de Gourdon* the Out-law near *Farneham*, where finding him in the Woods, and perſonally engaging with him, the fight continued ſo long, and with ſuch Animoſity and Courage on both ſides, as they as well as the Spectators marvailing at each others extraordinary unwearied Valour, the ſturdy Out-law was at laſt content, upon the Prince's offer to procure his Pardon, to throw down his Arms, and was reſtored to Favour and his former Eſtate.

[g] *Ro. clauſ.* 49. H. 3. m. 3. in *dorſo.* & Ro. Pat. 50 *H.* 3.

[h] *Mat. Paris.* 1002 & 1000.

And

And the King notwithſtanding the Succeſs at the Battle of *Eveſham*, and his Advantages gained thereby, continuing his Endeavours to free his Kingdom from the Danger, Damage, and Diſturbance of any further Rebellion, having gathered together a formidable Army, treated upon Hoſtages given with young *Simon de Montfort*, for a Peace to be granted unto him as to his own particular, and for the delivering up of the Caſtle of *Kenilworth*, wherein he had deſpitefully behaved himſelf by cutting off the hand of one of his *Courriers* whom he had intercepted, and ſending it unto him in a ridiculous jeering manner, not only from himſelf, but ſome of his Complices that were forfeited and diſherited.

But they that were in the Caſtle denying to ſurrender it, either to the King or *Symon*, in regard that they were intruſted by the Counteſs of *Leiceſter*, who was beyond the Seas, and without her Order they would not do it.

In the mean time, whilſt the King beſieged *Killingworth* Caſtle, which held out half a year, a great Party of thoſe that were diſherited growing deſperate, retired to the Iſle of *Ely*, which they did begin to fortifie, and from thence making Incurſions into the adjacent parts did great Miſchief.

Which to repreſs, ſaith [i] *Mathew Paris*, *citantur Communium Communes ad eos vallandos & eorum egreſſum impediendum*, which in great numbers they endeavoured to doe, but were over-reached by the Military Arts and Stratagems of the *Montfortian* Party, the King having the Caſtle of *Kenilworth* ſurrendred unto him. [i] *Mat. Paris.*

Symon and *Guy de Montfort* Sons to the Earl of *Leiceſter*, with the diſinherited Barons who eſcaped from the Battel of *Eveſham*, defending the Iſle of *Ely*, the King and the Prince going with an Army againſt them ſtreightly beſieged them, and tendred them afterwards gentle Conditions, wherein the King's Privy Councel were divided, for that *Mortimer* [k] having the whole Earldom, Honor, and great Eſtate of the Earl of *Oxford*, after the battle of *Eveſham* granted unto him, and many others, who had great Quantities of the diſherited Parties Lands given unto them, were unwilling to forgo what the King had for their Valour and Fidelity beſtowed upon them, and therefore would hold what they had; but *Glouceſter* and the Twelve Ordained to deal for the Peace of the State, and other their Friends, which were many, ſtood ſtifly for a Reſtoration. [k] Ro. Pat. 49 H. 3.

Which raiſed new Diſpleaſures, ſo as *Glouceſter* retired from the Court, and ſent a Meſſenger to require the King to remove Strangers [l] from his Court, and obſerve the Proviſions made [l] *Daniel* in the life of *Hen.* 3. 182 and 183, 184.

made at *Oxford*, according to his laſt Promiſe made at *Eveſham*, otherwiſe he ſhould not marvel, if himſelf did what he thought fit; whereupon in the one and fiftieth year of his Raigne at S^t. *Edmunds-Bury* was a Parliament ſummoned, unto which were cited *Comites & Barones, Archiepiſcopi, Epiſcopi & Abbates* [m] and all who held by *Knights Service* were to appear with Horſe and Armour for the vanquiſhing of thoſe diſherited Perſons, who contrary to the Peace of the Kingdom held the Iſle of *Ely*.

[m] *Mat Paris* 1002.

John de Warren Earl of *Surrey* and *William de Valentia* were ſent to the Earl of *Glouceſter* (who had leavied an Army upon the Borders of *Wales*) to come in a fair manner to that Parliament, which he refuſed to do, but gave it under his hand, that he would never bear Arms againſt the King, or his Son *Edward*, but to defend himſelf and purſue *Roger Mortimer* and other his Enemies, for which he pretended to have taken Armes. The firſt Demand in that Parliament which was made by the King [n] and the Legat, was, That the Clergy ſhould grant a Tenth for three Years to come, and for the Years paſt, ſo much as they gave the Barons for defending the Coaſts againſt the Invaſion of Strangers:

[n] *Daniel's* Hiſtory in the life. of King *H.* 3 and *Matthew Paris*. 1002. 1003.

Whereto they anſwred, That the War was begun by unjuſt Deſires, which yet continued, and it was more neceſſary to treat of the Peace of the Kingdom, to make uſe of the Parliament for the benefit thereof, and not to extort Moneys, conſidering the Land had been ſo much deſtroy'd by the War, as it would never be recovered.

When it was required, That the Clergy might be taxed by Laymen according to the juſt Value:

They anſwer, It was neither Reaſon nor Juſtice that they ſhould intermeddle in collecting the 10^th, which they would never conſent unto, but would have the Antient Taxation to ſtand.

It was deſired, That they would give the 10^th of their Baronies and Lay-fees according to their utmoſt values:

They anſwered, That they were impoveriſhed in attending the King in his Expeditions, and their Lands lay untilled by reaſon of the Wars.

It was moved, That in liev of a 10^th they ſhould give among them 30000 Marks to diſcharge the King's Debts, contracted concerning the Kingdom of *Sicily*:

They anſwered, They would give nothing, in regard that all thoſe Taxations and Extortions formerly made by the King, were never converted to his own Uſe, or the Benefit of the Kingdom.

Demand

Demand being made, That all the Clergy-men which held Baronies or other Lay-fees, ſhould perſonally ſerve in the Wars:

They anſwer, They were not to fight with the Material Sword, but the Spiritual, and that their Baronies were given of mere Almes.

Being required to diſcharge the 9000l. which the Biſhops of *Rocheſter*, *Bath*, *and the Abbot of Weſtminſter* ſtood bound to the *Pope's Merchants*, for the King's Service at their being at the Court of *Rome*:

They anſwered, That they never conſented to pay ſuch Loan, and therefore were not bound to diſcharge it.

Then the Legate from the Pope required, That without delay Prædication ſhould be made throughout the Kingdom, to incite men to take the Croſs for the Recovery of the *Holy* Land:

Whereunto Anſwer was made, That the greateſt part of the People were already conſumed by the Sword, and that if they ſhould undertake that Action, there would be none left to defend the Kingdom, and the Legate ſeemed to deſire to extirpate the Nation and introduce Strangers.

Laſtly, when it was urged, That the Prælates were bound to yield to all the Kings Demands by their Oath at *Coventry*, where they did Swear to aid him by all means poſſible they could:

They anſwered, that when they took that Oath, they underſtood no other Aids than Spiritual and wholſome Councell.

So nothing but Denyals being obteyned in that Parliament, the Legat imployed ſome to Sollicite the diſherited Lords, that held the Iſle of *Ely*, to leave off their Robberies, and return to the Peace of the King, the Faith and Unity of the Church, according to the Form provided by the *Dictum de Kenilworth*, made by a Commiſſion of the King (no Dict or Act of Parliament) to 12 *of the Peers*, for the Redemption of their Inheritances, given away by the King for Five ſay ſome, other Seven, years Profits.

They who had no Lands were to give their Oaths, and to find Sureties for their Peaceable Behaviour, and make ſuch Satisfaction and undergo ſuch Penances, as the Church ſhould appoint; they who were Tenants ſhould loſe their right to their Farmes, [o] ſaving the right of their Lords; they who did inſtigate any to Fight againſt the King, ſhould forfeit the Profit of their Lands for two years; and if any Perſon ſhould refuſe thoſe Conditions, they ſhould be *de Exhereditatis*

[o] *Dictum de* Kinilworth *anno* 51. *H.* 3.

reditatis, and have no power of recovering their Eſtates; in which Compoſition or *Dictum*, ſome Perſons, and particularly *Symon de Montfort* himſelf and his Heirs, were excluded.

To which they anſwered, That they hold the Faith received from their Catholick Fathers, and their Obedience to the Roman Church, as the Head of all Chriſtianity, but not to the Avarice and wilful Exactions of thoſe who ought to Govern the ſame. And that their Prædeceſſors and Anceſtors, whoſe Heirs they were, having Conquered the Land by the Sword, they held themſelves to be unjuſtly [r] diſherited, and that it was againſt the Popes Mandate they ſhould be ſo dealt withal:

[r] *Mat. Paris.* 1003 & 1004.

That they had formerly taken their Oaths, to defend the Kingdom and Holy Church (all the Prelates thundring the Sentence of Excommunication againſt ſuch as withſtood the ſame) and according to that Oath they were prepared to ſpend their Lives; and ſeeing they Warred for the benefit of the Kingdom and Holy Church, they were to ſuſtain their Lives by the Goods of thoſe that detained their Lands, which the Legat ought to cauſe to be reſtored to them.

Beſides, they declared to the Legat, That they had irreverently ejected out of the Kingdom the Biſhops of *Wincheſter*, *London* and *Cheſter*, whereby the Councell of the Kingdom was in great part weakned; willed that they might be reſtored to their Lands, without Redemption; that the Proviſions of *Oxford* might be obſerved, and that they might have Hoſtages delivered unto them into the Iſland, to hold the ſame peaceably for five years to come, until they might perceive how the King would perform his Promiſes.

But this Stubbornneſs ſo exaſperated the King, as the next year following, with a mighty Army he did ſo beſet the Iſle, as he ſhut them up, and Prince *Edward* with Bridges made on boats entred the ſame in diverſe places, and conſtrained them to yeild.

And in the 52d. year of [f] his Raign *devaſtavit*, ſaith *Matthew Paris*, *per totum Regnum de Comitatu in Comitatum, qui ſtabilem contravenientibus intentarent, ut videlicet, ſi quis Poſſeſſiones alienas, ſive Ovium, vel Boum, vel aliquid uſurparet injuſtè, ſubiret Sententiam capitalem.*

[f] *Mat. Paris.* 1005.

In the mean time the Earl of *Glouceſter* with his Army marched to *London*, where by the Citizens he was received; But the Legat reſiding in the Tower ſo prevailed with him, as he rendred himſelf to the King, and was ſhortly after reconciled by the Mediation of the King of the *Romans*, and

the

the Lord *Philip Baſſet*, upon the forfeiture of 12000 Marks if he ſhould ever raiſe any Commotion.

Which being effected, the King went with an Army into *Wales* againſt *Lewellin* their [r] Prince, for ayding *Simon Montfort* and the Earl of *Glouceſter* againſt him; but his Wrath being for 32000l. *Sterling* appeaſed, a Peace was concluded betwixt them, and four Cantreds which had been taken from him by right of Warr reſtored.

[r] *Mat. Paris.* 1005 & 1006.

Whereby thoſe bloody, long, and ruining Controverſies betwixt that unfortunate Prince King *Henry the Third*, and a great ill diſpoſed part of his Subjects, led and managed by ſome of his overgrown Nobility, and hæreditary great Officers of his Crown and Eſtate, (which had in and from his Infant age to *Fifty-Seven* vexed and diſquieted him and his Government) were drawing towards an end.

And whilſt he laboured to repreſs thoſe Diſorders which the Warrs had produced, iſſued out his Writs to all the Sheriffs and *Juſtices Itinerants*, to leavy 400l with all ſpeed out of the extract Rolls of Fines and Amerciaments, to be paid into the Exchequer for the expences of *William de Beverlaco* Prince *Edwards* Chaplain, ſent to *Rome* about his Affairs.

[ſ] Ro. Pat. 56 *H.* 3. m. 29. intus.

And in the ſame year beholding with tears the Ruines of the burnt and deformed [t] Church of *Norwich*, after the Biſhops Excommunication of all that had conſented unto it:

[t] *Mat. Paris* 1009 & 1009. and *Speed's* Hiſt. of *England.*

And *Trivet* the Judg puniſhing the Offenders, he fined the City in 3000 Marks of Silver, towards the repairing of that Church, and a Cup of Gold of the value of one hundred pounds.

In the 54th year of his Raign, *Parliamentum tenuit apud* Marleburgh *in quo de Aſſenſu Comitum & Baronum* (no mention at all being made of the Commonalty, as well high as low, in the Record, but is juſtly to be charged as a fault or miſtake upon Mr. *Pulton's* Tranſlation of our Statutes into *Engliſh*) *edita ſunt ſtatuta.*

The Legat *Ottobon* ſigned with the *Croyſado* both the King's Sons *Edward* and *Edmond*, the Earl of *Glouceſter* and divers other Noble men undertaking a War for the Recovery of the *Holy Land*, Prince *Edward* in that long and Perillous Journey carrying with him his beloved Conſort *Elianor* then young with Child, and Mortgaging *Gaſcony* to the King of *France* for 30000 Marks, who was alſo perſonally engaged in the ſame Expedition, and left his aged Father the King, broken with the cares and toyles of War, and Impriſonment, who after his Son Prince *Edward's* departure, being in the Fifty-fifth year of his Raign, having borrowed Moneys of his Brother *Richard* King

of *Almaine*, to help to ſet forward his Son *Edward*, and falling deſperately ſick and paſt all hopes of Recovery, aſſigned unto his ſaid Brother all the Revenues of the Crown, except Wardſhips, [u] Marriages, Releifes, Eſcheats of the Counties, Eyres of the Juſtices, and the Juries, which he retained in his own hands to his own uſe.

u Ro. Pat. 55 *H.* 3. intus.

A Noſtre ſouſtenance (as the words of the Record are) *& de Noſtre Reyne e de Nos meſnees e a Nos de Nos dettes aleger.*

And ſhortly after being doubtful of his Recovery from that ſickneſs, whilſt Prince *Edward* his Son and Heir to the Crown was engaged in that ſo called *Holy War*, Wrote his Letter of Advice unto him ſpeedily to return into *England* upon his Fatherly Bleſſing, notwithſtanding his Vow and Engagement in that affair, in ſuch manner as might be moſt for his Honour in theſe words, *viz.*

Rex Edwardo Primogenito ſuo kariſſimo ſalutem & paternam Benedictionem; Tenore Literarum veſtrarum Nobis ſuper veſtro Comitivæ Veſtræ ſtatu proſpero & jocundo, benedictus Deus, tranſmiſſarum audito pleniùs & intellecto læti efficiebomur [w] *& hilares in immenſum, & etiam ante receptionem ipſarum Literarum tanta & tam gravi infirmitate detinebamur,* [x] *quòd omnes & ſinguli exiſtentes Phyſici & alii de vita Noſtra communiter deſperabant, nec tempore quo later præſentium à Nobis receſſit de Noſtra Convaleſcentia ſpes aliqua habebatur, verùm tamen prout Altiſſimo de ſtatu Noſtro placuerit ordinare vos indè per Noſtros Nuntios reddemus frequentiùs certiores, undè cùm vos in Hæreditatem* (not by Election) *Regni Noſtri tanquam Primogenitus & Hæres Noſter poſt Nos ſuccedere debeatis, vos poſt receptionem præſentium ad partes remotiores nullatenùs transferatis, antè quàm de ſtatu Noſtro certitudinem habueritis pleniorem, tùm quia ſi* Papa *crearetur & mandaret chariſſimo fratri noſtro Regi* Alem' *illuſtri Avunculo veſtro, cui cuſtodia Regni prædicti de concilio veſtro commiſſa fuit, oporteat ipſum pro ſtatu ſui Regni* Alem' *ad Curiam* Romanam *modis omnibus perſonaliter accedere, ità quòd ad depreſſionem quorundam malevolorum infra Regnum Noſtrum exiſtentium ſicut noſtis intendere non poſſet, ut expediret, tàm quia ſi occaſione mortis Noſtræ (quod abſit) vos oporteat ad propria remeare cauſa Regiminis Regni prædicti recipiendi cum Rege* Franciæ, *qui ad partes* Franciæ *in brevi reverſurus eſt (ut dicitur) honeſtè redire poteritis & decentèr, ſuper quibus omnibus tale concilium habeatis, quale vobis & honori Veſtro ac ipſi Regno, & paci, & tranquillitati ejuſdem Magis videritis expedire; & hoc ſub obtentu paternæ Benedictionis nullatenùs omittatis, & ut vobis de voluntate Noſtra conſtet in præmiſſis conſulimus bonâ fide, quòd ad propria redeatis ſine morâ, quià veſtris & Regni prædicti Negotiis ad votum ordinatis & diſpoſitis poteritis*

w Ro. claus. 55 *H.* 3. m. 8. intus.

x *Mat Weſtminſter de anno* 1270.

cum

cum præfato Rege Franciæ *redire versus Terram Sanctam in subsidium ejusdem prout Magis noveritis convenire; Teste Rege apud* Westm' 6° *die* Februarii.

And tired with the many Troubles, with which the Rebellious and unquiet Spirits of too many of his Subjects had from his Infancy never ceased to torment him, exchanged his earthly Habitation for a better before his Son could hear of his Death, or return to take possession of his Kingdom and Inheritance.

And although he against his Will left behind him the first Original or Draught of a Constitution or Design of an House or Convocation, now called an House of *Commons* in *Parliament*, which can claim no better an Extraction then it's Birth and first Procreation from a Force and Dures of Imprisonment, put by a Rebellious Army upon their vanquished Soveraign, whilst he was in dread of the life of Himself and his Son, and his Brother and his Son, for more than a year and a quarter, and led about, and made to say, and do, and yeild unto every thing, which they would have him.

That afflicted Prince did not after the battle of *Evesham*, during all the Time of his Raign, which continued about Eight years after, make use of that kind of Writs of Summons, or of that Form for the Election of Knights, Citizens and Burgesses to let in the Tide of the Vulgar with their Ignorance, upon his highest and greatest Councel.

And those new-contrived Writs of Summons could not in all probability obtain a quiet Sitting, or accommodate the pretended Ends and Purposes of the Framers thereof, neither be intended to erect a third Estate, nor agree with the constrained Conservatorships, or other their Designs, otherwise than to maintain those Rebellious Barons in the Powers that they had usurped.

SECT. X.

That thoſe new contrived Writs of Summons, made by undue Means upon ſuch a diſturbed Occaſion, could neither obtain a proper or quiet Sitting in Parliament, *or the pretended Ends and Purpoſes of the Framers thereof, and that ſuch an haſty and indigeſted Conſtitution could never be intended to erect a third Eſtate in the Kingdom, equal in power with the* KING *and his great Councel the Houſe of* Peers, *or conſiſtent with the pretended Conſervatorſhips, or to be co-ordinate with the* KING *and his great Councel of* Peers, *or to be a curb to any of them, or themſelves, or upon any other deſign, then to procure ſome Money to wade through that their dangerous Succeſs.*

IN regard that very many of the Counties, and a great part of *England*, as moſt of the Northern, much of *Wales*, and the Marches thereof under the Influence and Power of *Valence* Earl of *Pembroke*, *Mortimer*, *Clare* Earl of *Glouceſter*, *Clifford*, *Le Strange*, and other *Welſh* Lords Marchers, and of *John Balioll*, and other of the Northern Barons joyned to the Power and Influence of *Gilbert de Clare* Earl of *Glouceſter* after his forſaking of *Montfort*, neither could or were like to come unto that ſo packed Parliament; for *Richard* Earl of *Cornewall* had very many Borough Towns in that County; *Wales* and its thirteen Shires, and the largely priviledged Earldom of *Cheſter* ſent no Knights or Burgeſſes to ſit in the Houſe of Commons in Parliament, either then, or before, or ſince, until by an Act of Parliament made in the later end of the Raign of King *Henry* the *Eighth*, they were Authoriſed to be Elected for that Purpoſe; *Warren* Earl of *Surrey*, and *Suſſex* was not in thoſe Counties deſtitute of many, *Ferrers* Earl of *Darby* falling off from *Montfort* could not but in the large extent of his Eſtate drew away very many of their well-Wiſhers, Followers, Friends, Allies, Tenants, or Dependants, and ſuch as held of them by Knights Service, and in Soccage or Burgage, and many Knights, Citizens, and Burgeſſes to be ſo elected (except thoſe in *London* and *Weſtminſter*, if any did then appear to have been choſen) as not dareing to come to that kind of New Parliament without a Convoy; Although the Power of the Earl of *Oxford* one of their Aſſociates in the County of *Eſſex* was then very great, whilſt they were almoſt daily and hourly haunted and tormented in their minds and Eſtates with Jealouſies, Fears and Dangers, and the often ſad and dolorous tidings of Devaſtations, Slaughters, Plunders and Sequeſtrations; that miſuſed King himſelf not being able

26 *H.* 8. 26.
34 *H.* 8. ca. 13
35 *H.* 8. 11.

to

to have any of his Servants or Subjects that he had, ſent for to come unto him, without a Convoy to defend them from Spoil and Pillage.

And the exacteſt Search, that hath been or can be made, cannot find any formal or certain Sitting of a Parliament, any Writs or Indentures returned, any Seſſion, Act or thing done in that ſo newly framed Parliament, when the minds of the Rebels themſelves were ſo tormented and diſtracted with Fears and Cares to preſerve themſelves and their Royal Booty, as they could neither be ſafe in keeping of him, or reſtoring him to his Liberty; for that the abuſed Lyon, patient for a while againſt his Will, once let looſe might remember paſt Injuries, and tear them in Peices; and no Act or Memorial can be ſeen of any more, than the Petition of two of the Knights Elected for the County of *York*, and their Allowance of Wages, where the Rebellious Party ſeemed to be moſt powerful, (no Burgeſſes of the many Towns and Boroughs in that large County at all, it ſeems, then Appearing or Petitioning) by a Tax or Levy made upon that County, which created the firſt Preſident or Cuſtom of giving Wages unto Knights of the Shires (no other Knights of the Shires or Burgeſſes of Townes, if there were or had been any Elected, then demanding the like Allowance) and that which was allowed the ſaid *Yorkſhire* Knights was, partly for Expences ſuppoſed in their helping to guard the maritime parts to keep out Strangers, or the Kings own Subjects in his ſeveral Provinces of *France*, from coming from the parts beyond the Seas to aſſiſt him, no Journal or Record of any Petitions made, or Grievances exhibited, Conferences, Debates, Deciſions, Acts, Orders or Ordinances, and that one that was made was only to engage and cozen as many as they could of the Biſhops and Clergy into their own Deſign.

And therein none of the Commons, or men of that Election, do ſeem at all to trouble their Heads, or be named as Actors or Conſenters therein; for it is expreſly ſaid to be provided, *Per Commun aſſentement du Roy & des Prelaz des Contes & des Barons de la tere, & a fermete en teſmoinaunce le Roy & les hauz Hommes de la tere ont mis leur Seus*; neither doth there appear to to have been any Prorogation or Adiournment thereof.

And there was like to have been no ſmall want of Money, when *Symon de Montfort* and his Partners, eſpecially after the Earl of *Glouceſter's* Sullennes and Departure from them, to maintain and keep together ſo inſtable a People, and ſo great a number for the guard of their Royal Priſoners and their own evil Doings, marching and maintaining their Army from place to place,

place, Ungarriſoning and Garriſoning divers of the King's Caſtles and Places of ſtrength, together with the no ſmall Charges of their diſloyal Contrivances, Envoys, and Ambaſſadours to their good Friends, the King of *France*, and the Pope.

Their great Neceſſities appearing very demonſtrable, in their harſhly preſſing the Biſhops for ſome Arreares of the Clergy, Tenths, Seizing and Sequeſtration of the Rents and Eſtates, as much as they could come at, of the Loyal Party to the pretended Uſe of the King, taking away the Tax and Tallage of the Judaiſm or Banks of the *Jews* (the then, beſides the *Caurſini* the Popes Bankers or Brokers, only Uſurers of the Kingdom,) which had been aſſigned to the Prince; not omitting the getting into their hands the Tolls and Profits of the Markets and Fairs appertaining to his Mannor of *Stamford*, who untill the very inſtant of his Eſcape from the Caſtle of *Hereford*, where he had long lain a quiet Priſoner under their Perſecution, had enjoyed them.

All, or but ſome, of which might have given them a Temptation and Opportunity, if they had had the mind or leaſt Inclination to it, to have taken thoſe few Commons that were with them into their Aſſociation, and moulded them into a never-before-uſed Form or Figure of a Parliament (ever ſince ſo miſtakenly called,) or Conſtitution of a third Eſtate and Houſe of Commons therein, when anciently and long before our Kings great Councels or Parliaments conſiſted only of ſuch Lords Spiritual and Temporal, as they ſhould pleaſe to adviſe withal, and thoſe Commons which they had with them do not appear to have made any Act of Parliament or Ordinance for the raiſing of Money to ſupport the charges of their Rebellion.

But that part of the Baronage appeared to have been ſo unwilling to take them into their Company, or give them any occaſion to contemn or lift themſelves above their former condition, as when in the Difficulties with which they wreſtled, upon the Prince's denying his Conſent ever to have been given to a ſuppoſed Ordinance then lately (as they would have as many as they could make believe it) to have been made at *London*, by the Prelates and Barons, by the unanimous Aſſent of the King and his Son the Prince & *totius Communitatis Regni*, concerning the ſetling of Peace in the Kingdom, the freeing of the Prince from his Impriſonment, and the Diſcharge of the ill Opinion which many of the People had of their Actions, they were conſtrained to ſend Writs in the King's Name the 12th. of *June* in the ſame year of that impriſoned King, dated at *Hereford*,

unto

unto the Biſhops of *London*, *Winchester*, *Ely*, *Salisbury*, *Chester*, *Coventry* and *Lichfeild*, *Bath* and *Wells*, and the reſt of the Prelates, who may then be underſtood to have been abſent to come *omni feſtinatione* to adviſe with him at *Glouceſter*, to aſſiſt him with their Councels, and be a Means to take off thoſe Rumours which had been raiſed, that by the Teſtimony of the King himſelf and the reſt of the Prelats, the Truth might appear, that it was not the King himſelf, but the Rebels (as whileſt he was in their Power he was made to ſtile his Son the Prince and his Loyal Party.) But none of the Commons before ſummoned, or deſigned to have been ſummoned, had any new Writs ſent unto them for that purpoſe to meet at *Glouceſter*, which would have been very neceſſary, if they could have born any Teſtimony to that ſuppoſed Ordinance, (which is not in any of the Records of that year, or any other year, thoſe *monumenta vetuſtatis & veritatis*, to be ſeen;) or if they had had any Vote in that imaginary Parliament, it would not have been ſaid in that King's Writ, dated at *Weſtminſter* the firſt day of *February* in the year aforeſaid, and in the Cloſe Rolls of that year, That although upon ſome Diſcords ariſing amongſt the Scholars in the Univerſity of *Cambridge*, the King had given leave, that there might be an Univerſity eſtabliſhed at *Northampton*, yet being informed by all the Biſhops of the Kingdom, that it would greatly inconvenience the Univerſity of *Oxford*, he did *de concilio magnatum* ſtrictly forbid it.

But if there had been any Proceedings upon thoſe Writs, for the Election of Members to conſtitute an Houſe of Commons, for that or any long time expended in the duration thereof, few of whom either came, or were willing or dared to be preſent at that new-fancied Parliament, which could not be believed to have had any Duration or long Continuance, if it had at all gained a lawful beginning, or could have overcome thoſe many Obſtructions, which lay before them, thoſe two Knights of the Shire ſent out of *Yorkſhire*, who had obtained a Writ for their Wages or Charges in coming, tarrying, or returning, and were poſſibly gone homeward, or ſhortly going, would not have made ſuch haſt to be gone.

It being alwayes to be remembred, that although King *Edward* the *Firſt* had ſo ſubdued *Wales* as to make them obedient unto ſuch Laws as he would have them obey, yet King *Henry* the *Eighth* was the firſt that removed the Barr and accuſtomed diſtances and Enmities, that had long continued between the *Engliſh* and the *Welſh*, when in the 27th. year of His Reign he did incorporate his Dominion of *Wales* with his Kingdom

of

27 *H.* 8. 26. 35 *H.* 8. 11. & 34 *H.* 8. 13. of *England*, and ordained that *All that were born, or to be born in* Wales *ſhould enjoy the Laws of the Realm, which and no other he willed ſhould be uſed in* Wales, *and that two Knights ſhould be choſen to be Knights as Members in the Houſe of Commons in Parliament for the County, and one Burgeſs for the Town of* Monmouth: *Knights and Burgeſſes ſhall be choſen in every Shire and Borough of* Wales *to come unto the Parliament, and have the allowance of Wages, as others uſed to have, and there ſhould be two Knights for the County of* Cheſter *choſen, and two Burgeſſes for the City, to be Members of the Houſe of Commons in Parliament*: Which rendred it to be not only improbable, but impoſſible that any Knights or Burgeſſes for *Wales*, and the Counties of *Cheſter* and *Monmouth*, and the Boroughs thereof, in that ſo New-created Parliament of *Symon de Montfort*'s own framing, in *Anno* 49 of King *Henry* the *Third*, or in any other Parliaments better authorized, until the aforeſaid Reign of King *Henry* the *Eighth*: And it is alſo remarkable, and to be obſerved; that the *County Palatine* of *Durham*, and the *Borough* of *Newark* in the *County* of *Nottingham*, had no Authority to ſend Burgeſſes to Parliament, neither did, untill His now Majeſties Happy Reſtauration. 25. *Car.* 2.

Or if that (ſo would be called) Parliament could by any ſtretch of Fancy have been ſuppoſed to have been itinerant with the Army, it could never come up to any Probability, that that King ſo governed againſt his Will by it, would the fourth day of *June* by his Writ, dated at *Hereford* directed to the Mayor and Bayliffs of *Briſtol*, have commanded them to ſend unto him *Ten* or *Twelve* of their moſt honeſt and diſcreet Citizens, to ſatisfie the reſt of the City, that He had been privy unto all that had been done in His Name, and to the end that they might be better informed of his Will and Pleaſure, if there had been any Members of Parliament for the City there already with him Elected or Attending.

For certainly they that had ſtrugled ſo much and contended to blood for a Twenty-four Conſervatorſhips, reduced during the Kings Impriſonment to Nine, after to Four, of the more ſpecial Rebellious Undertakers, would be loath to part with that Power and falſe Authority which they had ſo deſperately gained.

And the buſineſs for which the Knights and Burgeſſes were deſired by them to be elected and called together to treat with the Prelates and Nobles of the Kingdom, whom the King, as they would have it believed, had cauſed to be ſummoned and called to a Parliament which was to be holden in *Octabis Sti Hillarii* then next coming, as well concerning the Delivery of his Son Prince *Edward* out of Priſon, where he remained

ed a Pledge or Hoſtage for the King, as for other matters touching the common Good of the Kingdom, in which the preſence of them, and other Loyal men, as the Writ ſaid, was requiſite, and were *in fide & dilectione* in which they were bound unto the King to be there, to treat of ſuch things, as the King, by the Advice of his Prelates and Barons, ſhould for the common Profit of the Kingdom ordain, as they tendered his and their Honours (a word by the Cuſtomes and Curialities of *England* not in theſe or many ages after uſual or appropriate to the Commons & Burgeſſes or Tradeſmen of *England*). And was an Import beyond the underſtanding and reach of the Capacity of the Vulgar, and if it could have been thought to have been fitting or neceſſary for that inſtant Emergency, could not with any Reaſon or true Judgment be ſuppoſed, to have been proper Adviſers for any afterward Matters of State, weighty or grave Deliberations, upon which the Safety and Welfare of the whole Nation was to have any dependance; as if that Prince *Edward* or any other Prince, our Kings Eldeſt Son, had for all Ages to come been ſuppoſed to be Priſoners, or Hoſtages for their Father. Neither could ſuch a device be in any Probability long, or any thing near everlaſting in, the very Deſign it ſelf, or Meaning of the Contrivers; for that even after they were to a Deſpair utterly overthrown at the battle of *Eveſham*, and the *Dictum*, Pardons, and Compoſitions made at *Kenelworth*, the Earl of *Glouceſter* upon a renewed Diſcontent raiſed Forces and demanded the Obſervation of the Proviſions made at *Oxford*, (which amongſt other things for the *Conſervatorſhips*) which he alledged the King had promiſed at the Battle of *Eveſham*, (and very likely, if at all, after the battel ended) and ſome of the diſherited Lords that had fled to the Iſle of *Ely*, and forcibly withheld the poſſeſſion thereof from the King, did amongſt other their Demands make it to be one of their Propoſitions, that the Proviſions of *Oxford* might be obſerved.

And that kind of Summons made in and by the Name of a Captive King, when He was a Priſoner could not by any Rule of Law or Reaſon, have been then added to our ancient fundamental Laws, and made to be a fundamental Law, as ancient as the Government, upon which the Houſe of Peers, and a great part of the Monarchy was built; nor ſuch a third Eſtate or Conſtitution of a different Nature, and after ſo long an Interval of time made to be co-ordinate with it, which the Proviſions at the forced Parliament at *Oxford*, (if any ſuch thing as a Co-ordination in a Houſe or Society of Elected Commons had then been in *Actu* or *rerum natura*, or in any Being or Exiſtence

iſtence before the framing of thoſe Proviſions) did annihilate, and ſeem never to intend.

And if ſuch a Novel, great Councel, Parliament, or Convocation could have met with any Succeſs, which in regard of Diſcords, Rebellions, Hoſtilities, Jealouſies, and Fears then buſying and diſturbing the Kingdom, was every where embaraſſed, and incumbred with Dangers and Troubles, the King and His Brother, the Prince His Son, with many of the Loyal part of the Baronage impriſoned, and the remaining part of them either Fled, or under the power of their and the Kingdomes Enemies, could have taken Root or gained any Fixation; no ſmall Conteſts and Diſſentions ariſing betwixt the Earls of *Leiceſter* and *Glouceſter*, and their ſeveral Adherents, two of the greateſt Supports [y] of the Faction (as it uſually happeneth, ſaith *Daniel*, in Confederacies, where all muſt be pleaſed, or all the knot will break) about their Dividends, private and particular Agreements.

[y] *Sam. Daniel* in the Life and Reign of King *Henry* 3d. 180. 181.

It could not eaſily, or at all receive any Entertainment in the Reaſon or Underſtanding of Mankind, or which is much leſs any colour of it, or leſs than that in any Man's Imagination or Conjecture not mad or diſtempered, that ſuch a numerous part of the Commons, as to the Burgeſſes to be elected out of the vulgar, rude, raſh, giddy, and apt-to-be-partial, and eaſily miſled, affrighted, or flattered ſort of the People, ſhould produce any good Effect, either to themſelves or the publick, when too many of them were, or would be likely to be, moſt commonly altogether illiterate, and of ſuch as could eſcape that unhappy Character; but few that had ever looked in at the Threſhold or Door of good Learning and Policy, and fewer that had ſpent any or much of their time in it; but addicted themſelves, or imployed moſt of their Thoughts upon the Cares of managing their own Eſtates, Husbandry, Trade, or other neceſſaries of Livelihood, more proper for the common and inferior Ranks of the People, upon whom very many ſad and often Experiments have for many Ages and Centuries before, deſervedly fixed, and impoſed the indeleble Marks of *Mobile, profanum, & ſceleſtum Vulgus*, and given Us a lamentable Account of many of their mad and reaſonleſs Advices, willful, and head-long Actions, to the Deſtruction, not only of their Superiours, and thoſe that would or ſhould guide them, but of themſelves, and all that have had to do with them, or any ill governed Aſſembly, or let-looſe Multitude of Men. Which, without good Accidents, and much Difficulty to boot, are ſeldom Governed, or brought within the bounds or compaſs of well

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digeſted Reaſon and Prudence; eſpecially, if they ſit for any long time to hatch or brood Factions or Partialities, Envies, Animoſities, Self-intereſts, over-ſtrained Liberties, Authorities, Priviledges, and taking too much upon them.

And there could not be any or much good Event expected to happen to the Councels of Princes, or the Weal publick, either as to the Secrecy (the life of Councels) *Conſultive* or *Active* part of them. Or to thoſe rebellious Lords themſelves, who as the Caſe then ſtood with them, were concerned to order the buſineſs as much as they could for their own Preſervation and Advantage, and to take care that there ſhould be ſome Bridle or Method to reſtrain them.

And there being beſides *Twenty-Four Cities* in *England*, where two Citizens were to be choſen out of each, by the direction of that novel Writ, and a great number out of as many Boroughs, and Corporation-Towns then in *England*, at the arbitrary and corrupt Power of the Sheriffs, as it after proved and hapned, with its *Thirty-Nine Shires*, and two Knights to be choſen out of each, (the Counties and Boroughs of *Wales* not being at that time to be put into the Account) and Four out of every of the *Cinque-Ports*, the number would ſo ſwell and increaſe, as might very much exceed that of the Peers and Barons, which in the largeſt Eſtimate would not then arrive unto *Two Hundred* and *Eighty*, and according to the then more common Accompt; and they then ſummoned *ad libitum Regis*, not many more than *Sixty*, in which high and honourable Court, and Houſe of [z] Lords Spiritual and Temporal, ſhould that very great ſurpaſſing number of Commons have their equal Suffrages, as it may be believed they never were intended to be allowed, the leſſer number would be over-powered by the greater; the more noble prudent and concerned, by thoſe that were little at all, and introduce a Community or Vaſſalage upon themſelves and their Poſterity, which the *Roman Senators* and *Patritii* in a Common-Wealth, made out of a Monarchy for fear of Tyranny, were unwilling to admit, and when they were ſeditioned and mutinyed unto it, left their Chil- and *Seri nepotes* to endure the dire Effects of their often Changes from *Kings* to *Conſuls*, from *Decem-virates* unto *Tribunes* of the People, *Cenſors*, *Tribunes-Military*, bloody Proſcriptions, and Wars betwixt the *Patritii* and *Plebeians*, pacified and ſucceeded by a *Dictator*, after that a *Trim-virate*, after that an *Emperor and ſemper Auguſtus Cæſar*, with an arbitrary Power, until good and wholſome Laws of their own making gave an Allay unto it.

For ſuch a *Miſcellany* of *Imis cum Summis* of Inferiours with Superiors could not be deemed to be either more or better enabled

[z] *Spelman's* diatriba de Baronibus.

than the *Prelates and Baronage* of the Nation, the *Moratiores homines* Men of better Extraction & Education, the ancient extraordinary grand Councel of our Kings and Princes not meanly, but eminently skilled in matters of State and Policy, Religion, War, forreign Languages, and Affairs of their own State and others, and in the quieting the Troubles of it.

Nor could that their Device at that time have much Aſſurance of any good Succeſs therein, when the Prince was a Priſoner and Hoſtage for his Father, (who was long after in no better a condition) againſt the Laws of Wars, and Rules of Hoſtages, and the Tenor of thoſe Writs of Summons carried nothing in them of a perpetual Conſtitution, or any thing more than *pro hac vice*, and for that only time and purpoſe. Or that ſuch a Parcel of the lower ranks of People could be more knowing and intelligent, than the King of *France*, aſſiſted by his grand and learned Nobility, Clergy, and Wiſdom of his Parliament of *Paris* were not long before, when they determined thoſe grand and long-depending bloodily-agitated Controverſies, betwixt that perſecuted King, and ſome of his then ungovernable Barons, concerning the diſloyal and unhappy Proviſions enforced from Him at *Oxford* ſome Years before.

And ſuch a *novum & inauditum* betwixt a Monarch and King (no Feudatory) and his rebellious Subjects, referred to the Advice of themſelves, or their Partizans, touching the Claim of their Pretences in their own particular Caſes, being not eaſily to be found in any the Annals, Hiſtories, or Records of this or any other Kingdom or Nation.

For many of the *Milites* or Knights in that new Contrivance to be Elected, were at that time, as to their Eſtates, of ſo general and loſt Eſteem, as *Twenty* or *Fifteen pounds per Annum*, was by the Statute of the *Firſt* Year of the Raign of King *Edward* the *Second*, which was not much above *Forty Three* Years after, conceived to be no contemptible Rate, or Proportion of Livelihood for a Knight; when [a] *William de Felton*, an Anceſtor of a Family now of good Note, in the County of *Suffolk*, being in the *Third* Year of the Raign of King *Edward* the *Third*, preſented before the *Juſtices itinerant*, to be ſeized of the Mannor of *Botingdon*, *quod valet per Annum Twenty* Pounds, & to be *Thirty* Years Old, *& nondum Miles ideo in miſericordia*, and many Gentlemen of good Extractions and Families did heretofore appear, to have been long after retained under Earls and Barons in the Wars, and Service of their Prince, and not ſeldom as Domeſticks, and more eſpecial Servants in their then large and honourable Families, and have been their Receivers, Stewards or Feodaries, worn their more

[a] *Placita apud Northamptou coram* Galfrido le Scroope & *ſociis ſuis Juſtic. itener'* An. 3. E. 3.

ſpecial

ſpecial Livings, and taken Wages, Dyet, and Allowance for themſelves, and a limited Number of Men and Horſes, altho ſome of them have been Gentlemen of good Value and Deſcent, and very many of thoſe which have been ſince Elected, are not denyed to have been Perſons of ancient and worſhipful Families.

The Citizens and Burgeſſes (Merchants excepted) ſuch as did *Sordidas artes exercere*, as the Civil Law ſtileth [b] them, Men that uſually made their Gain, or manner of Living by Deceits and Lying, and were as our Common Law above *Two Hundred* Years after declared them, ſaith *Littleton*, to be Men with [c] whoſe Daughters to Marry would be to a Gentleman ſuch a Diſparagement, as the Parents and Kindred might Legally complain of it; and the Teſtimony, ſaith the *Cæſarean* or Civil Law, of a Gentleman was to go as far, or to be valued, as two of them. And how unequal they were like to be in their Births, Reputations, and requiſite Parliamentary Abilities, who being to be very Burgeſſes, and City or Town-Trading Inhabitants, according to the Intention of thoſe Writs, could not be expected to be other, than ſuch as were only bred and inſtructed in the Arts, Tricks, Deceits, and Myſteries (as they have been ſince well called) of Trade, and the moſt of their Eſtates and Livelihood gained by it, being much more wickedly than Honeſt, as their Apprentices and Journey-men, who know the Secret thereof, can Witneſs; nor to be able or ſerviceable to their Prince in any thing, more than to attend Him (if He ſhould need or call him) as a Merchant to ſome great and publick Mart or Fair, to help him to buy or ſell ſuch Things as ſhould be there Marchantable, or that the Knights to be choſen in the Shires, who in thoſe times made the Military Exerciſes to be their greateſt Care and Employment, would not be more neceſſary and fit to attend their Soveraign, to perform the Office and Intention of thoſe Writs, to defend their King, themſelves, their Country, Friends and Neighbours, and to do that which every Gentleman, and ſuch as were *è meliori luto* of the more refined Clay, better born and bred, than the *rude Vulgus*, or common ſort of People, would of themſelves, if not commanded, or otherwiſe by their Tenures obliged, be willing to do; as that Learned *French* Lawyer [d] *Briſſonius* well obſerveth, *Qu'en la neceſſitie de Guerre toutes les Gentilz hommes ſont tenus de prendre les Armes pour la neceſſitie du Roy*; which by our Laws of *England* is ſo to be encouraged, as it is Treaſon to kill any Man, that goeth to Aid the King, and is no [e] more than what the Oaths of Allegiance and Supremacy

[a] Sir *John Ferne's* Glory of Generoſity.

[c] *Littleton's* Tenuries, *Cokes* 1. Inſtit. *ſuper Littleton.*

[d] *Barn. Briſſon.* in *Baſilic.* Lib. 6. Tit. 23.

[e] 21. E. 3. 23. 45. E. 3. 21.

premacy do bind every *Engliſh-man* unto, although they ſhould tarry in the Camp more than *Forty* Dayes, or not have *Eſcuage* or any Allowance of their Charges from their own Tenants.

And the People of the Counties and Cities, as well as the ſmaller Towns or Boroughs, which were to delegate or commiſſion them, and make them wiſe enough to give their Aſſent in that great and ſolemn Aſſembly and Councel of the King and His Prelates, Baronage, Lords Spiritual and Temporal, unto what they ſhould ordain *in quibusdam* (not *in omnibus*) *arduis*, high and extraordinary Matters concerning the King, Church, and Kingdom, not in ordinary or common, were only, or more eſpecially, to take into their Conſideration, and inform the State, Commerce, Intereſt, and Affairs, Abilities, or Diſabilities of the Countries, & Places to ſupply their Soveraign's occaſions; & ſome of thoſe Burgeſſes Elected, and ſent from poor Fiſher-Maritime-Towns (the moſt prudent Obſervers of whom might have done *Ariſtotle* good ſervice in his Enquiries (not of the Politicks, but) of the ebbing and flowing of the Sea, or ſome of the leſſer Genery, or *over-grown Yeomanry*, as might inſtruct *Varro* or *Columella* in the deſign of writing their Books *de Re Ruſticâ*, or the well lined plauſible Dweller in ſome inconſiderable Villes, or a ſmall number of Houſes, little better than Cottages, with a fair Inn, with two carved or gilded Sign Poſts, and a St. *George* on Horſe-back unmercifully killing the *Dragon*, and the Inhabitants, Men of no more Language, Wit, or Learning, than was ſcarcely ſufficient to manage their vulgar mechanick Employments) might have been more uſeful in the Parliament of the *Twenty-Seventh* Year of the Raign of King *Edward* the *Third*, when the Statutes of the *Staple*, and the *Staple* Cities, and Towns ſo greatly concerning the after happening Golden-Fleece-flouriſhing-wollen-Trade, and Manufacture in *England*, and the enriching thoſe Cities and Towns, were made and enacted.

And the Conſent or Advice therein of the vulgar or ignoble part of the Free-holders, might have been more requiſite in the making and framing the Act of Parliament in the *Twenty-Third* Year of the Raign of the aforeſaid King, touching *Labourers* and *Servants*; or that long after made by Queen *Elizabeth*, in the *Fifth* Year of her Raign, limiting the Wages of Servants, Artificers, and Workmen, as being likely to be more ſenſible, and to give good Inſtructions in their own Concernments, than in thoſe of their Superiours, their Land-lords, *viz.* The King, Nobility, Biſhops, Gentry, irelgious Houſes, Colledges, Univerſities, Deaneries, Præbendaries, Hoſpitals, Corporations, and Companies of Trades, *&c.*

Thoſe

Thoſe that were Boroughs were not then ſo many or half ſo big, as they have been ſince by our King's Royal Favours, in the granting of Fairs and Markets unto them, with divers other Immunities and Priviledges, *&c.* Nor had gained ſo great Additions to their Buildings, and former extent by their Scituation or Neighbourhood to ſome great Town or City of Trade; and the Inhabitants of them Men only converſant in the evil Arts of Trade, and with *Demetrius* the Silver-Smith ready to do more for *Diana's Temple*, than St. *Paul's* Preaching, and lay out that little Underſtanding that they have, in taking ſome Lands to Farm near adjoyning; and being as little acquainted as may be with State-Policy, or any thing out of the reach of their Neighbourhood, will be as unfit to know or diſcern wiſe Men, as the *Corydons*, *Hobby-nolls*, country *Carters*, or *Mechanicks* are, or would be, to Elect or give their Votes or Suffrages, for the taking of the degrees of Doctors, Maſters, or Batchelors of Arts in our Univerſities; or as Brick-laiers would be to give their direction and advice in the Building, Rigging, Tackle, Steering, and Sailing of a Ship.

Or to give a liberty to the Boys to chooſe their School-Maſter, and direct what Methods he ſhould uſe in the governing of them; or to the Common People, to elect and chooſe the King's Privy Council, or to have Votes or Suffrages in the making or repeal of ſuch Laws, as the variety of their Humours, Intereſts, Envies, Ambitious Ignorances, and Whimſies ſhould perſwade them to obey or be ruled by, or ſuch as may conſiſt with all of them together, or as much as for that very inſtant or moment of Time may agree with every Man's particular Fancy, Intereſts, Occaſion, Advantage, Will, or Pleaſure; or of thoſe that ſhall awe, flatter, bribe, delude, fool, or ſeduce them.

Or in the Hurry and Diſtraction which Rebel-Armies and Gatherings of, a miſled or cheated Part of, the People in ſuch a Collection uſe to be, might probably think it neceſſary and greatly conducing to their preſent ſelf Advantages, to procure them that were under the influence of their Power, then very formidable, or of the Tenancy or dependance of themſelves, or the reſt of the Baronage, whom they were labouring by Force, Fear, Flattery, or other ſeducing and evil Arts, to entice and draw into their Party, to conſent for the preſent, to the Advice or Petitioning for the Confirmation or Eſtabliſhment of the conſtrained Proviſions made at *Oxford*; and their *Conſervatorſhips* which the King of *France* had not long before ſolemnly in his aforeſaid Arbitration condemned and annulled.

For

For the [f] Engine or Knack of the *Twenty-Four Conſervators* to govern them and the King and Kingdom, *Twelve* as it was ſometimes propoſed to be choſen by the King, and *Twelve* by the victorious Rebels, after confined to a much ſmaller Number, as their Power and [g] uſurped Authority in a ſhort time after gave them the Liberty and Occaſion, could never be thought to be with any intention to continue that new Model or Frame of Parliament any longer than *pro hâc vice*, until the impriſoned King and Prince ſhould be releaſed, and the Diſturbances of the Kingdom quieted, as thoſe Writs of *Simon* and *Peter de Montfort*'s own framing and putting under the King's Name and Seal did, if they might be credited, ſeem to import.

[f] *Dugdales* Baronage, *Tit.* *Leic.* and *Petri de Montfort.*

[g] *Daniel* in the Life of *K. Hen.* 3.

But were rather convened for *Simon de Montfort*'s particular Ambition, and Eſtabliſhment, nor could otherwiſe be interpreted to amount to any more, than the moſt likely to have been the diſmal Effects thereof, the Deſtruction of the King and his Family, Subverſion of the ancient fundamental Laws and Cuſtoms of the Nation, and Change of our ancient *Monarchy* into an *Oligarchy*.

And muſt either be underſtood not to have known at all the fundamental Uſages, Cuſtomes, Priviledges of the Prælates, Nobility, and Great Men of the Realm in their King's great Councels, or Parliaments, when they were thereunto Summoned; and that long after both by the *Feudal*, and common Laws of this Kingdom, the Lords Spiritual and Temporal were in Parliament to Aſſeſs a proportionable *Eſcuage* [h] upon ſuch of their Tenants, who held any *Capite* Lands, and did not go with them in Perſon to ſerve their King and Country, and were not to be their own Aſſeſſors, but ſubmit unto what they ſhould in thoſe great Councels, ſubordinate to their King's, determine; and as they anciently were uſed to do, when Taxes were laid upon Knights Fees, when the Common People that were to pay them were not all preſent, or any for them.

[h] *Cokes*, 1 Inſtitutes, *Tit.* eſcuage.

Or never to intend to introduce ſuch a Party of the Common People into a *Co-ordination* or Fellowſhip with them, in a Subordination to their Soveraign, which might, as they did afterwards entice them to, encroach and believe, that a Licenſe of Petitioning for Redreſs of any Grievances which might happen, and a Liberty to give an Approbation and Obedience to what ſhould be there ordained by the King, by the Advice of his Lords Spiritual and Temporal for the publick Good, ſhould be in, or unto them, or their Succeſſors,

sors an Authority or original Power, to controul what their Kings by the Counsel of their Lords Spiritual and Temporal should there find necessary to Enact; when they could not forget, that even in the time of the Imprisonment of King *Henry* the *Third*, they did in his Letters, Rescripts, Writs, and Edicts, written and sent about the Kingdom in his Name, i amounting to no fewer than *Sixteen*, mention that his said Orders, Acts, and Commands were done by the Counsel and Advice *Procerum & Magnatum suorum*, and in some of them his *Prelates*, *Barons*, *& hautes hommes*, but nothing at all of the Commons.

i Ro. pat. & claus 48. & 49. H. 3.

And that Rebellious part of the Baronage might the easier be led into that they never meant, when they had some reason to think or assure themselves, that such an Election of Members, or the parts of the common People, would much advance the fixing and setling their Designes, when they could not but acknowledge, that they owed much of their Liberties and happiness under their Kings and Princes unto them, and their Ancestors, as in particular, unto an Earl of *Oxford*, in procuring of the King *Three Hundreds* in the County of *Essex*, to be diaforrested, and might be glad to entail and perpetuate their Assistances, Dependencies, Hospitalities, Priviledges, and Favours upon their Posterity, and after Generations; and rather return a submissive Compliance unto them well accepted, than to endeavour to prejudice, or in the least to make themselves equal unto them, or *Masters* of them, but would be content to be ruled by them, and not endeavour to govern or domineer over them.

With which doth accord that well founded Opinion and Answer of that k excellent Prince, and very Martyr King *Charles* the *First*, our late gracious and pious Soveraign, in his Answer to the haughty and undutiful Nineteen Propositions, sent unto Him by the rebellious and misled Parliament, the *Second* Day of *June*, *One Thousand Six Hundred Forty Two*, That the *House of Commons was never intended for any share in the Government, or the Choosing of them that should Govern*, and were not likely, in those early and troublesome times, to get any Root or Foundation for such an unwarrantable Pretence. And might have believed, that the Prelates and Baronage of *England* had heretofore Power and Influence sufficient, to have kept them in a better Order, both towards them and their Sovereign.

k Exact Collection of all Remonstrances, Petitions, Messages, Declarations, & Answers betwixt the King and Parliament from the 1st. of *Decemb.* 1642. until 24 *March* 1652. Ordered by the Commons Assembled in Parliament to be printed.

SECT. II.

Of the great Power, Authority, Command, and Influence, which the Prelates, Barons, and Nobility of England, *had in or about the* Forty-Ninth *Year of the Raign of King* Henry *the* Third, *when he was a Prisoner to* Symon de Monfort, *and those Writs of Election of some of the Commons to Parliament, were first devised and sent to Summon them: And the great Power and Estates which they afterwards had to create and continue an Influence upon them.*

WHen the then *Prelates*, by the Papal great and exorbitant Power over the Bodies and Souls of the People of *England*, as well high as low, rich or poor, their Power of certifying Illegitimations, Bastardy, or *Ne unques loyalment accouplis en Matrimony*, with their Fulminations, Excommunications, Curses, Interdictions, Confessions, Absolutions, Pardons, and Dispensations, Denial of Christian burial, Affrights of Purgatory, undenyable Commands over the inferiour Clergy, and they over the People; together with the great Authority which their Episcopal Function and Dignity inseparably conjoynt with their Temporal Baronies had given unto them in the Parliaments of *England*, the greatest and highest Councels and Assembly of the Nation, were in the time of King *Henry* the *Third*'s Imprisonment, so much allured and drawn by some of their factious and naughty Incitements to *Symon de Montfort*'s Party, by a kind of Ordinance and Agreement before mentioned of the then over-ruling-Power of the rebellious Victors, as there was an undertaking to preserve from Plunder and Spoil, all the Lands and Estates of the Holy-Church, affirm their Authorities, and all that they should have reasonable Order for, amends should be performed, and full Power granted unto them by the King, or Generality of the Earls, Barons, and great Men of the Land, to provide things profitable for the bettering the Estate of the Holy-Church to the Honor of God.

And with their temporal Baronies, unto which many Mannors of a great Extent, and yearly Value were annext, and some other Barons holding of them, and had their many *Milites* for service of War, and Multitudes [1] of Tenants by Tenure, Lease, and Copy-holding of them.

[1] *LL. Edwardi Confessor* 21.

And the regular and monastick part of the Clergy of *England*, many of whose Abbots and Priors were admitted to

sit

fit amongst the Peers in Parliament, were so envied for their great Revenues and Estates, as the [m] Commons in a Parliament in the Raign of King *Henry* the *Fourth*, wherein Lawyers were prohibited to be elected Members, and therefore stiled *indoctum Parliamentum*, did petition the King to confiscate, and take into his own Revenue, all their Lands which they had calculated to be sufficient to maintain *One Hundred* & *Fifteen Earls* (no small Estate in those times, being enough to satisfy the honourable Yearly expences of one Earl, and his numerous Retinue, after the rate of their then living 1500 Knights, 6200 Esquires, and erect *Two Hundred* Hospitals for the Relief of maimed Souldiers.

m Sir *Rich. Bakers* Chronicle.

And in that new Frame of a great Council or Parliament, wherein a part of the Commons of *England* were to be Assembled, which can find no other Original than the Fate of that unhappy King in the battle of *Lewis*, as the close Roll [n] of the 48 of that King will tell us, there were no fewer of the then well-wishing Clergy to *Symon de Monfort*, Summoned unto that new modelled Parliament, than *One* Archbishop, *Fourteen* Bishops, *Thirty-five* Abbots, *Two* Priors, their good Friends and Confederates, and for Companies sake in such an hopeful and popular Project, *Four* Abbesses to help them to Cordials in that languished State of Loyalty they then were in.

n Ro *claus.* 48 H. 3. *parte unica* m. 6. in *dors. Schedula.*

The Earls, & Barons were then, & long after, Great & Noble by Descent, Birth, Extraction, Lands, Estate, Alliance, Command, Power, and Authority, not a few of them by Consanguinity or Affinity, deriving their Progeny from the lines of several of their Kings & Princes, & much of their Honors & Support from their Bounty & Munificence, as they were pleased to dispence them by their influence, favors, or bounty, for great & heroick Actions & Services done for them & the Weal publick; & their Authority could not be small, either in the Fear or Force of it, when at the time of the *Norman* Conquest all the Lands and Services thereunto belonging of the Kingdom, were either the Kings in *Demesne*, or in the Possession of those Great Men and Commanders, unto whom he had granted them, [o] and that again distributed by them to their Servants, Friends, or Followers to hold by Knights Service, Soccage, Copy-hold, Leases for Years or Villenage, with some Services imposed, as going in Person to War to defend them and their Soveraign, Castle-guard, *Carre* and *Manuopera*, and the consented unto reservations or willing oblations of doing much of their works of Husbandry, in the hopes of their Justice in their little Courts or petit Soveraignties, Protection, and Assistance

o *Dugdales* preface in his Survey of *Warwickshire*. *Liber consuetudinum vocat.* Doomsday *Lib. rub. in Scac.*

againſt the injuries and oppreſſion of wrong Doers, and the Comfort of a large and free Hoſpitality, and Charitable uſes, together with the Foundation and Endowments of many Abbies, Priories, and religious Houſes, which obliged both the ſecular and regular Clergy to love and honour them, p and the *liberi homines* or Freeholders were, as unto many of them, only ſuch as had been manumiſſed, and had from the condition of Servants or Villains, attained unto the degrees of *libertini* or *ingenui*, or ſo fortunate as to have ſome ſmall Parcels of Lands in Fee ſimple or Tail, or for life by Gift, Purchaſe, Marriage, or Copy-hold, granted and given by them; moſt of the *Saxon* race being ſo unhappy, as to be content to become Tenants to the *Conquerours* of their own Lands, whilſt the Nobility and Great Men, being more deſirous of Service, than Money or Rents, granted the Service of Men or Tenants, that held by Knights Fees or Service, or parts thereof, one unto another, many of which I have ſeen amongſt the Evidences of *Alberick de vere* the 20th Earl of *Oxford* of that name, ſo greatly were they then eſteemed, and ſo little believed to be a Slavery, but rather a bleſſing to all the people of the Kingdom as the men of Reformation cannot find any complaint made in all our many Parliaments ſince the *Britiſh*, *Saxon*, *Daniſh* or *Norman* Kings or any of their Succeſſors, until the *Scotiſh* and *Engliſh* Frenzy began, (wherein they did all they could to pull in pieces our Antient Monarchy) but on the contrary did in no leſs than 30 or more Parliaments Petition their Kings to confirm their *Magna Charta*s and *Charta de Foreſta*'s, which are holden of our Kings in *Capite*, and are the perfect figures and repreſentation of our Kings Feudal Rights, Regalities and Governments, and the *Engliſh* Nobility having all the great offices & places of Honour of the Kingdom, & about the Perſons of their Kings, with their influence, Power, and Authority in their great Councels or Parliaments, and thereby the Opportunities of pleaſing and diſpleaſing, hurting or helping whom they would, were, as too many of them, and not a few of the common People, like the righteous q *Job* in his Proſperity, when they came out to the *Gates of the City, the Ears that heard them bleſſed them, the Eyes that ſaw them gave Witneſs unto them; they delivered the Poor that cryed and the Fatherleſs, and them that had none to help them, the Bleſſing of thoſe that were ready to periſh came upon them, they cauſed the Widdows hearts to ſing for joy; were Eyes to the blind, Feet to the lame, and Fathers to the poor; brake the Jaws of the Wicked, and pluckt the Spoyl out of their Mouths, their Root was ſpread out by the Waters, and the*

p *Dugdales Monaſticon Anglicanum*, 12. 3. Tom.

q *Job.* ca. 29.

the Dew lay all night upon their Branches, they gave ear unto them, waited and kept ſilence at their Councel.

And could not be ſlighted or taken to be Benefits of a ſmall ſize or eſteem, but to be very great and worthy the ſeeking and obtaining, when *Threeſcore* and *Ten Thouſand* Knights Fees, every one of which being then no ſmall Eſtate, either as to the extent of the [f] Lands, or the Value thereof, as *Ordericus Vitalis*, who lived in the time of the *Conqueror*, hath numbred them, or but about *Thirty two Thouſand*, as Mr. *Selden* believeth, were given by *William the Conqueror* to his Nobility, Great Men, and Followers to be holden of him, his Heirs, and Succeſſors in *Capite*, and all the other Lands of the Kingdom, except thoſe large quantities which were King *Edward* the *Confeſſor*, as appertaining to the Crown of *England*, and what elſe he kept in his own Poſſeſſion and Demeſne, and beſides what he endowed and founded divers Abbys, Monaſteries, Priories, and Nunneries withal, to hold of him and his Heirs and Succeſſors in *Capite*, and by Knights Service, were again, as unto a great part thereof, diſtributed and granted by his Nobility, great Men, and Followers to their Dependants, Servants, Tenants, and Friends to hold of them by Knight-Service. Which drawing to it by the *Feudal* Laws, part of the fundamental Laws of *England*, and incorporated therein, Wardſhips (no Slavery, Burden, or Grievance, if rightly uſed or underſtood, but a Protection, Comfort, and Benefit, as well publick as private) Reliefs, Education, Protection, and Marriage of their Heirs in their Minority, which was the greateſt Concernment of their Families, did put and render the Commonalty under the Patronage and Tutelage of the Nobility, and great Men Subordinate to the King their Soveraign, and common Parent, which many other Nations, and the greateſt Pretenders, and Enjoyers of Liberties in the Chriſtian World, have not onely deemed, but experimented to be an Happineſs.

[f] Sir *Edward Cokes* 1 part *Inſtitutes tit. Eſcuage.* 515. *Et Ordericus Vitalis.*

Inſomuch as if it were to be tryed by the Suffrage and Experience of our *Engliſh* Anceſtors, if they could from the Dead be produced and heard to ſpeak in the Affairs and Caſe of *England*, and a due Conſideration had of the Security had, and long enjoyed by the *Northern* parts thereof by the Tenures by *Cornage*, aſſiſted by that of Knight-Service and *Capite*, and the Reſidence of the Baronage of thoſe Countryes, againſt the dayly and nightly Incurſions, and Spoil of their then ill Neighbours, the *Picts and Scots*, which amounted unto as much or more than the coſtly Wall and Fortifications, which the *Romans*

mans built and provided againſt them, together with the Safety and Guard, which a great part of *England* hath been often defended by the *Lords Marchers*, againſt the Hoſtilities and Unquietneſs of the *Welch*, it's former Owners, would bring us in a verdict of *O felices! bona ſi ſua nôrint.*

Which muſt needs attract the Love, good Will, Fear, Awe, and Obedienee of the People, who ſo well underſtood their own conditions, and that of the Nobility, as to believe that, to quarrel or be diſobliging unto any of them, was to fall foul, or out of the favour of all their great Alliances, Friends, Kindred, numberleſs Tenants, Servants, Retainers, Dependants, and well-Wiſhers; many of which being their own Relations, Friends, or Kindred, might either help on, and bring upon them a moſt certain and inevitable Ruine, or put their ſmall and fainting Eſtates into a languiſhing Condition, when any, the leaſt, Offences taken or given, would be ſure to effect it, in the Diſpleaſure of thoſe, who until the Reign of King *Edward* the *Firſt*, and ſome Ages after, were ſo high and potent.

As that *Ferrers* Earl of *Darby*, an Oppoſite to King *Henry* the *Third*, in the Baron's Wars, had *Twenty* Lordſhips in *Barkeſhire*, *Three* in *Wiltſhire*, in *Eſſex Five*, in *Oxfordſhire Seven*, in *Warwickſhire Six*, in *Lincolnſhire Two*, in *Buckinghamſhire Two*, in *Glouceſterſhire One*, *Herefordſhire Two*, *Hantſhire Three*, *Nottinghamſhire Three*, *Leiceſterſhire Thirty-Five*, *Derbyſhire One Hundred* and *Fourteen*, *Staffordſhire Seven*, of which was *Chedley* a parcel, whereunto that part of *Staffordſhire* appertained; and beſides had the Caſtle and Borough of *Tudbury* in that County, together with many Advowſons, [t] Patronages, *&c.* and Knights Fees holding of him in thoſe and other parts of *England*.

[t] *Dugdale's* Baronage. 1 *Tom.* 257.

An Anceſtor of *Gilbert de Gaunt*, a partaker of the *Norman* Conqueſt, another Oppoſite of King *Henry* the *Third*, had in the *Conquerors* Survey *One* Lordſhip in *Barkſhire*, *Three* in *Yorkſhire*, *Six* in *Cambridgeſhire*, *Two* in *Buckinghamſhire*, *One* in *Huntingtonſhire*, *Five* in *Northamptonſhire*, *One* in *Rutland*, *One* in *Leiceſterſhire*, *One* in *Warwickſhire*, *Eighteen* in *Nottinghamſhire*, *One Hundred* and *Thirteen* in *Lincolnſhire*, with *Folkingham*, which was the Head of his Barony; beſides Knights Fees of thoſe that held of him Patronages, and Advowſons, Fairs, Markets, Aſſize of Bread and Beer, Pillory, and Tumbrel, *&c.*

Symon de Montfort Earl of *Leiceſter* was in the right of *Amicia*, one of the Siſters and Co-heirs of *Robert Fitz Parnel*, a *Norman* Earl of *Leiceſter*, Lord high Steward of *England*, in Fee, an Office of Large [u] Authority and Eſteem, had in *Warwickſhire*

[u] *Dugdale's* Baronage. 1 *Tom.* 83.

wickſhire Sixty-Four Lordſhips, in *Leiceſterſhire Sixteen*, in *Wiltſhire Seven*, in *Northamptonſhire Three*, in *Glouceſterſhire One*; beſides many Knights Fees of thoſe that held of him, Advowſons, Patronages, Fairs, Markets, and the priviledges of Pillory, Tumbrel, and the Aſſize of Bread and Beer.

The Earl of *Glouceſter* [w] and *Hartford* had *Thirty-Eight* Lordſhips in *Surrey*, *Thirty-Five* in *Eſſex*, *Three* in *Cambridgeſhire*, *Halling* and *Bernieling* Caſtle in *Kent*, *Haresfeild* in *Middleſex*, *Sudtime* in *Wiltſhire*, *Leviſton* in *Devonſhire*, *Ninety-Five* in *Suffolke*, beſides *Thirteen* Burgages in or near *Ipſwich*, of which *Clare* was one, from whence that Family took their Surname, or it from them, had the Town and Caſtle of *Tunbridge* in *Kent*, the Caſtle of *Brianels* in the County of *Glouceſter*; and whilſt the King and his Son *Edward* were Priſoners at *Lewis*, obtained a Grant under the Great Seal of all the Lands, and large Poſſeſſions of *John Warren* Earl of *Surrey*, to hold at the King's Pleaſure, except the Caſtles of *Rigate* and *Lewis*, was one of the Chief that extorted a Commiſſion from the King, authorizing *Stephen Biſhop* of *Chicheſter*, *Symon Montfort*, and himſelf, to nominate *Nine*, as well Prelates as Barons, to manage all things according to the Laws and Cuſtomes of the Kingdom, until the Determinations ſhould be made at *Lewis* (and others which they better liked ſhould take Effect.)

[w] *Idem.* 207. 213, 214.

Claus 2 part 48 *H.*3.m.10.

Awbrey de Vere [x] in the general Survey of *William* the *Conqueror*, had *Cheviſton* now *Kenſington*, *Geling* and *Emingford* in *com Hunt.* *Nine* Lordſhips in *Suffolk*, *Fourteen* in *Eſſex*, whereof *Colne*, *Hengham*, and *Bentley* were part, in *Warwickſhire Six*, in *Leiceſterſhire Fourteen*, in *Northamptonſhire Six*, in *Oxfordſhire Two*, and in *Wiltſhire Ten*; a Deſcendant of whom had in the Raign of King *Stephen*, together with *Richard Baſſet* Juſtice of *England cuſtodiam Comitatus*, and executed the Sheriffs Offices of *Surrey*, *Cambridge*, *Huntington*, *Eſſex*, *Hartford*, *Northampton*, *Leiceſter*, *Norfolk*, *Suffolk*, *Buckingham*, and *Bedford*, had by the Grant of *Maud* the Empreſs, and King *Henry* the *Second* her Son by inheritance, the Earldom of *Oxford*, granted unto him and his Heirs, and Mannor and Caſtle of *Cauſeild*, in the County of *Eſſex*, and the Office of *Lord Great Chamberlain of England* in Fee, with the Caſtles of *Hengham* or *Hedingham*, and *Campes* to be holden by that Service, and divers other Lands, and Poſſeſſion of a great yearly Value, had before the *Fourth* Year of the Raign of King *Henry* the *Third*, by the Marriage of the Daughter and Heir of the Lord *Bulbeck*, many Mannors and Lands in the Counties of *Buckingham* and *Cambridge*, and by the Marriage of the Daughter and Heir of *Gilbert Lord Sanford*,

[x] *Dugdale's* Baronage 1 *Tom.* 188.

Sanford, the Inheritance of divers Mannors and Lands in the Counties of *Eſſex* and *Hartford*, and a Grant in Fee to be *Chamberlain* to the *Queen die Coronationis ſuæ*, with divers Priviledges, and *One Hundred Knights* Fees holden of them, one whereof was by the Heirs of *Mordaunt* for Lands in *Eſſex*, to come compleatly Armed, as Champion to the Heir of the Family, and Earls of *Oxford*, in the great Hall of *Hedingham* Caſtle upon the day of his Nuptials, to defy and fight with any that ſhould deny him to be Earl of *Oxford*; and another for the Mannor of *Horſeth* in the County of *Cambridge*, holden by the Family of *Allington*, now the Lord *Allington* of the Kingdom of *Ireland*, by the Service of holding the Earl of *Oxford*'s Stirrop *die nuptiarum*, which was actually performed in the Raign of Queen *Elizabeth* the day of the Marriage of *Edward* Earl of *Oxford* with the Daughter of the Lord *Burghley*.

Roger Bygod in the *Conquerors* Time, did poſſeſs *Six* Lordſhips in *Eſſex*, and *One Hundred Seventeen* in *Suffolk*, had a Grant in the Raign of King *Henry* the *Second*, of the Mannors of *Erſham*, *Walſham*, *Alvergate*, and *Aclay*, and the Honour of *Eye*, in the County of *Suffolk*, the Cuſtody of the Caſtle of *Norwich*, and a Grant of the Office of high *Steward of England*, to hold and enjoy in as ample manner, as *Roger Bygod* his Father had held it in the time of King *Henry* the *Firſt*, was Earl Marſhal of *England* by Inheritance, and had thereby a great Command and Authority in the King's Armies, and all his Martial Affairs, regiſtred in his Marſhals Rolls thoſe many *Thouſands*, who as Tenants in *Capite* came into the Army to y perform their Service, by which alſo they were enabled to receive *Eſcuage* after of thoſe that were their Under-tenants, and held of them, and did not come to do their Service, was in times of Peace as in War, to appeaſe Tumults, to Guard the King's Palace, diſtribute Liveries, and Allowances *to the Officers* thereof, attend at the doing of Homages, have a Fee of every Baron made a Knight, and to receive of every Earl doing Homage, a Palfry, and Furniture.

[a] *Spelman's offard. & in ro rubro de ac.*

Hugh de Montfort Anceſtor of *Peter de Montfort*, one of the *Twenty-Four* enforced *Conſervators* for the Kingdom, in the ſaid Raign of King *Henry* the *Third*, had in the general Survey *Twenty-Eight* Mannors in *Kent*, beſides a large proportion of *Runney Marſh*, *Sixteen* in *Eſſex*, *Fifty-one* in *Suffolk*, and *Nineteen* in *Norfolk*, a Deſcendant of whom had in 12. *Henry* the *Second*, holden of him *Ten* Knights Fees, and a *Fourth* part *de veteri feoffamento*, and was ſeized of the Mannor of *Welleſ-*

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borne in *com' Leic*, which *Peter* had in 12 *Henry* the *Third*, the Mannor of *Beldeſert* in *Comitat' Stafford*, in *Anno* 35 *Henry* the *Third*, was Governor of *Horeſton* Caſtle in *Derbyſhire*, in *Forty-One* Warden of the Marches of *Wales* towards *Montgomery*, and alſo of the Caſtles of *Salop* and *Bruges*, was Sheriff [z] of the Counties of *Salop* and *Stafford*; and ſo likewiſe for the next enſuing Year had the Cuſtody of the Caſtles of *Bruges*, and *Elleſmere*, in *Anno* 47. *Henry* the *Third* was Governor of the Caſtles of *Corff* and *Shirburne*, and of the Caſtle and Mannor of *Seggewick*; and was in *Anno* 49. *Eiuſdem Regis* made by that King's Impriſoned Seal, Governor of *Whittenton* Caſtle in *Shropſhire*.

z *Dugdale's Baronage* 1 Tom. 407. 408. 409.

Gilbert de Segrave the Son of *Hereward* held the Mannor of *Segrave* in *Com' Leic'*, with the *Fourth* part of a Knight's Fee, had a Grant of the King of the Lands of *Stephen de Gaunt*, in the Counties of *Lincolne* and *Leiceſter*, in the 5*th*. of *Henry* the *Third* was Sheriff of the Counties of *Eſſex* and *Hartford*, and the *Two* next enſuing Years, in the 6*th*. of *Lincolnſhire* for *Three* parts of the Year, and to the 8*th*, in 11*th*. *Henry* the *Third* Sheriff of *Buckingham* and *Bedfordſhire*, and continued until the 18*th*, in the 10*th*. of *Henry* the *Third* was a *Juſtice itinerant* for *Nottingham* and *Derby-ſhires*, purchaſed *Mount Sorrel* in the County of *Leiceſter*, in the 16*th*. *Henry* the *Third*, had the Cuſtody of the Caſtle of *Northampton*, and of the Counties of *Buckingham*, *Bedford*, *Warwick*, and *Leiceſter* for the term of his Life, taking the whole Profits of all thoſe Counties for his Support in that Service, excepting the ancient Farms which had been uſually paid in the Exchequer, with the Encreaſe which in King *Henry* the *Seconds* time [a] had been anſwered for them, was Chief Juſtice of the Court of Common-Pleas in 2*d*. *Henry* the *Third*, when upon the removal of *Hubert de Burgh* he was made Cheif Juſtice of *England*, and had likewiſe the Mannor of *Almonsbury* in *com' Huntington*.

a *Dugdale's Baronage.* 1 Tom. 671. and 672.

Hugh Deſpencer [b] was in the *Eighth* Year of the Raign of King *Henry* the *Third*, conſtituted Sheriff of the Counties of *Salop* and *Stafford*, Governor of the Caſtles of *Salop* and *Bridgenorth*, in the 10*th*. of *Henry* the *Third*, Sheriff of *Berkſhire*, and Governor of *Wallingford* Caſtle, and in the 17*th*. of *Bolſoner Caſtle* in *com' Derby*, in 44*th*. was by the rebellious Barons made Chief Juſtice of *England*, after the Battle of *Lewes* Governour of *Orford* Caſtle in *Suffolk*, the *Deviſes* in *Wiltſhire*, *Oxford*, and *Nottingham* Caſtle, *Bernard* in the Biſhoprick of *Durham*, and one of the *Twenty-Four Conſervators* for managing the Affairs of the Realm, was ſeized of the Mannor of *Ryhal* in *com' Rotel'*, *Leghere* and *Wykes* in *com' Eſſex*, *Bernewell* in *com'*

b idem ibidem 389.

Northampton, *Wycomb* in *com' Buck'*, *Soham* in *com' Cant'*, *Berewick*, *Winterborne*, *Baſſet* in *com' Wilts*, & *Speke* in *com' Berk*, whoſe Grand-child *Hugh le Deſpencer* in the Raign of King *Edward* the *Second*, was poſſeſſed of no leſs than *Fifty-Nine* Lordſhips in ſeveral Counties, *Twenty-Eight-Thouſand* Sheep, *One Thouſand* Oxen and Steers, *Twelve Hundred* Kine with their Calves, *Sixty* Mares with their Colts *Two* Years old, *One Hundred Sixty* draught Horſes, *Two Thouſand* Hogs, *Three Hundred* Bullocks, *Sixty* Tuns of Wine, *Six Hundred* Bacons, *Eighty* Carkaſes of *Martilmas* Beef, *Six Hundred* Muttons in the Larder, *Ten* Tuns of Cider, with Armes, Plate, Jewels, and ready Money to the value of *Ten Thouſand* Pounds, *Thirty-Six* Sacks of Wool, beſides a Library of Books.

ibid. 396. and 397.

Humfrey de Bohun, whoſe Deſcendant joyned with the Barons againſt King *Henry* the *Third*, had in *Anno* 12. *Henry* the *Second*, *Thirty and a half Knights Fees*, *de veteri feoffamento*, and *Nine* and a half *de novo*, was Earl of *Hereford*, and Conſtable of *England* by deſcent from his Mother, his [c] Son *Henry de Bohun* anſwered *Fifty* Marks, and a Palfrey to the King for *Twenty* Knights Fees, belonging to the Honor of *Huntington*, had the Earldom of *Eſſex*, and a very great Eſtate of Lands belonging thereunto, deſcended unto him by *Maud* Counteſs of *Eſſex* his Mother, together with a great Eſtate of Lands, which came unto her from *Iſabel third* Daughter and Co-heir of *William* Earl of *Glouceſter*, had likewiſe Lands in *Haresfeild* in *com' Glouc'* holden by the ſervice of Conſtable of *England*, the Mannors of *Shudham* and *Witnorſt*, *Kineton* in *com' Hunt'*, and *Walden* in *com' Eſſex*.

[c] ibid. 180. and 181.

Veſcy, one of the Barons againſt King *Henry* the *third*, was at the time of the *Norman* Conqueſt ſeized of one Mannor in *com' Northtamp'*, *two* in [d] *Warwickſhire*, *ſeven* in the County of *Lincoln*, *nine* in *Leic'*, the Caſtles and Baronies of *Alnewick* in *com' Northumberland*, and *Multon* in *com' Eboru'*, had beſides vaſt Poſſeſſions beſtowed on him by King *Henry* the *firſt*, the Mills of *Warner*, *Bodele*, and *Spilſham* with *eleven* Mannors, divers Lands, and Tenements in the City of *York*, and whatſoever he held of *David* King of *Scotland*, and *Henry* his Son, the Arch-Biſhop of *York*, Biſhop of *Dureſme*, of the Earl of *Richmond*, *Geffry Eſtcland*, and *Richard fitz Paine*, *Roger de Moubray*, *William Foſſard*, *William Paganell*, the Earl of *Albemarle*, *Roger de Clare*, *Gilbert de Gant*, *Roger de Beauchampe*, *Henry de Campaine*, *Ralph* the Son of *Bogan*, the Earl of *Cheſter*, Abbeſs of *Berking*, *William de Sailley*, and of all the Fee of *Thurſtane* the Son of *Robert de Mansfeild*, had likewiſe the Mannors of *Ellerton* and *Canſ-*

[d] ibid. 89. and 90.

Cansfeild, and was Governour of the Caſtle of *Bamburgh*, in *com' Northum'*, ſeized of the Mannors of *Brentune*, *Propertune*, *Pecheſton*, and *Sormeſton*, *Burgh*, and *Knaresburgh*, in the County of *York*, Barony of *Halton*, and *Conſtabulary* of *Cheſter*, a Deſcendant whereof had in the Raign of King *Henry* the *Second*, *twenty* Knights Fees *de veteri feoffamento*, and many *de novo*, that held of him had in 32*d.* *Henry* the *third* in the Right of *Agnes* his Wife, one of the Daughters of *William de Ferrers* Earl of *Derby*, partition of the Lands in *Ireland*, which did belong to *William Marſhal* Earl of *Pembroke*.

Whoſe Anceſtor had in the 2*d.* *Henry* the *Second*, Lands of a great Yearly value in *Weſtcombe*, [e] *Marleburgh*, and *Criol* in *com' Wilts'* given unto him by the King, with the Office of Earl *Marſhal*, and all other Lands holden of him in *England* or elſe-where, had a Grant of the Mannor of *Boſeham* in *com' Suff'*, with the Laſtage and Hundred, the Lordſhips of *Weſtive* and *Bodewin*, with the Hundred of *Bodewin*, all the Lands which the Earl of *Eureux* held in *England* (except the Mannor of *Marlow*) all the Lands of *Hugh de Gournay* lying in the Counties of *Norfolk* and *Suff'*, *Kaule* and *Caſtre*, and all the Lands of *Hugh de Ayer* in *com' Norf'*, the Office of *Marſhal* of *Ireland* in Fee, with the Cantred within which the Town of *Kildman* was Scituate, was Warden of the Marches of *Wales*, Sheriff of *Lincolnſhire*, and Governour of the Caſtles of *Oſwaſtre* and *Shrawardine*, had the Mannor of *Hengham* in *com' Norf'* with the Advowſons of the Church thereof, in *Anno* 16*th* of King *John* executed the Office of Sheriff of *Lincolnſhire*, for *three* parts of that Year, and likewiſe in the 17*th.* in which he was aſſociated with *John fitz Robert*, of the Counties of *Norfolk* and *Suffolk*; as alſo in the Cuſtody of the Caſtles of *Norwich*, *Oxford*, and *Dorcheſter*, was Sheriff of *Warwickſhire*, and Governour of the Caſtle of *Worceſter* in the time of the Barons Wars, in the firſt Year of the Raign of King *Henry* the *third* made Sheriff of *Hantſhire*, and Governour of the Caſtle of *Devizes* in *com' Wilts'*, had a Grant of all the Lands of *William de St. John*, who in the 49*th.* Year of *Henry* the *third*, took part with the rebellious Barons.

[e] ibid. 599.

William de Percy, deſcended from *Manfred*, a *Dane*, coming out of *Denmark*, with the fierce and famous *Rollo* into *Normandy*, and thence with *William* the *Conqueror* into *England*, and much beloved by him, had granted unto him by him vaſt Poſſeſſions in the Realm, as appeareth by the General Survey in *Dooms-day Book*, viz. *Ambledune* in *Hanſhire*, divers Lordſhips in *Lincolnſhire*, and in *Yorkſhire eighty-ſix*, whereof *Topoline* in

Dugdale's Baronage Tom 1. 269.

the *North* Riding was one, and *Spofford* in the *Weſt* Riding another.

Camois, a Baron againſt King *Henry* the *Third*, was in *Anno* 26*th*. of his Raign for *that half* Year Sheriff of the Counties of *Surrey* and *Suſſex*, and from that time until the one half Year of the 30*th*. of his Raign ſeized of the Mannor of *Wodeton* in the County of *Surrey*, *Ditton* in *com' Cantabr'*, *Burwel* in *com' Oxon'*, *Torpel* in *com' Northamp'*, and of divers Knights Fees in other Counties.

f ibid. 593. *D' Eynill* [f] was in 41. and 44. *Henry* the *third*, Juſtice or Warden of all the Forreſts beyond *Trent*, in *Anno* 47. Governour of the Caſtle of *York*, and in 48. of the Caſtle of *Scarborough*, from *Michaelmas* 48. was Sheriff of *Yorkſhire*, until the Battle of *Eveſham*, where he was againſt the King.

g ibid. 561. *Monchenſey* was one of the rebellious Barons at the Battle of *Lewes*, had great Poſſeſſions in the Counties of *Eſſex*, *Norfolk*, *Glou'*, *Kent*, and *Northampton*.

h ibid. 570. The Lord *Lovetot*, [h] one of the rebellious Barons, was in the laſt half Year of 39*th*. *Henry* the *third* Sheriff of the Counties of *Nottingham* and *Derby*, and Governour of *Bolſaver* Caſtle.

i ibid. 575. *Henry Heſtings*, ſideing [i] with the Barons, was in the 48. Year of the Raign of *Henry* the *third*, made Governour of the Caſtle of *Scarborough* in *com' Eborum*, and of the Caſtle of *Wincheſter*.

k ibid 545. *Robert de Roos* [k] had great Poſſeſſions, amongſt others the Caſtle and Barony of *Helmeſley* or *Hamlake* in *Yorkſhire*, the Caſtle and Barony of *Warke* in *Northumberland*, and the Barony of *Trusbut*, being of the part of the rebellious Barons was for ſome time Governour of *Hereford* Caſtle, when Prince *Edward* was there detained Priſoner, in 42. *Henry* the *third*, anſwered for *four* Knights Fees and an half, and an *eighth* part in *Lincolnſhire*, *fifty-two* Thirds, a *twelfth* and a *twentieth* in *Yorkſhire*, *ten* for his Barony of *Trusbut*, *four* and a *fourth* and *third* part of *Warter*.

l ibid. 435. and 436. *Adam de Novo Mercato*, [l] deſcended from *Bernard de Newmarch*, one of the followers of *William the Conqueror*, ſubdued to himſelf *three Cantreds* being the moſt part, if not the whole, of the Country of *Brecknock* in *Wales*, had in 8*th*. *Henry* the *third* the Barony of *Bayeux*, and in the 47*th* and 48*th* divers Lands in the County of *Lincolne*, and the Mannor of *Wilmaresly*, *Campſhall*, *Thorne*, *Bentley*, and *Archley* in *com' Ebor'*.

m ibid. 626. *Colvile* [m] was ſeized in the Raign of King *Henry* the *third*, againſt whom he took Arms, of the Caſtle of *Bitham* in the Coun-

County of *Lincolne*, and of his Purparty of *fifteen* Knights Fees in the ſaid County.

Roger Bertram [n] had the Caſtle and Barony of *Mitford*, with *thirty-three* Mannors belonging unto it, in the County of *Northumberland*, and was in rebellion againſt King *Henry* the *third*. [n] ibid. 544.

Robert de Nevil, [o] a great Baron and Lord of *Raby* in the Biſhoprick of *Durham*, was Sheriff of *Norfolke* in 2*d*. *Henry* the *ſecond*, Captain General of the King's Forces beyond *Trent*, in 47. *Henry* the *third*, Sheriff of the County of *York*, Governour of the Caſtle thereof, and of the ſtrong Caſtle of the *Deviſes* in the County of *Wilts*, and in 48*th*. *Henry* the *third*, Warden of all the Forreſts beyond *Trent*, and Governour of the Caſtle of *York*, was againſt the King at the Battle of *Lewes*. [o] ibid. 287.

Fitz Alan of *Clun*, [p] from whom the Earles of *Arundel* deſcended, enjoyed a great Eſtate, and was againſt the King at the Battle of *Lewes*. [p] ibid. 314.

Robert de Vipont, [q] one of the rebellious Barons of King *Henry* the *third*, had by the Grant of King *John* the Caſtles of *Appleby* and *Burgh* in the County of *Cumberland*, together with the Baylewick or Shrievalty of the County of *Weſtmorland*, to him and the Heirs of his then Wife, unto which Barony belonged the ſaid Mannors of *Appleby* and *Burgh* under *Stanemore*, *Flaxbridge-Park*, *Forreſts*, and Chaſes of *Winefell*, and *Mallerſtang*, *Brougham* Caſtle, with *fifty-ſeven* Mannors more in the County of *Cumberland* and *Weſtmoreland*, in the *firſt*, *ſecond*, and *ſixth* Year of the Raign of King *Henry* the *third*, was Sheriff of *Cumberland*, and Governour of *Caerliſle*, in the *tenth* one of the Juſtices *itinerant* in the County of *York*, and in the *eleventh* one of the Juſtices of the Court of Common-Pleas. [q] ibid 347.

Henry de Neuburgh [r] in *Normandy*, a younger Son of *Roger de Bellomont* Earl of *Mellent*, had the Caſtle and Borough of *Warwick* beſtowed upon him by *William the Conqueror*, with the large Poſſeſſions of *Turketill de VVarwick*, who had the Reputation of Earl of *VVarwick*, although he was but in the nature of a Lieutenant to the Earl of *Mercia*, had *Wedgenock* Park with the Caſtle of *Warwick*, Mannors of *Tamworth*, *Claverdon*, and *Manton Mauduit* in *com' Warr'*, the Mannors of *Gretham*, and *Cotes-more* in *com' Rotel'*, with ſome Lands in the County of *Worceſter*, the Mannor of *Chadworth* in *com' Glou'*, in 12. or 13. *Regis Johannis*, *Henry* Earl of *Warwick* certified *one hundred* and *two* Knights Fees, with a *third* part of a Knights Fee, and had by the Gift of that King the Seigneury of *Gowerland* in *Wales*, which an Anceſtor of his is long before ſaid to have [r] *Dugdale's Baronage.* 1 Tom. tit. *Warwick* 72.

Con-

Conquered, was Owner of the Caſtle, Mannor, and Priory of *Kenilworth* in *com' Warwick*, gave to *Geoffry de Clinton* the Sherivalty of the County of *Warwick* to him and his Heirs, to be holden of him and his Heirs; and in *Anno* 25. *Henry* the *third*, Earl *Thomas* gave a Fine of a *hundred* and *eighty* Marks to the King over and above his Scutage, that he might be diſcharged from his Attendance upon him in his Expedition into *Gaſcoigne*, and that he might levy the like upon his Tenants gave *One Hundred Twenty Pounds* more.

And of no leſs Power and Authority with and over the Common People were the reſt of our *Engliſh* Nobility, which took up Armes with the King, or ſtood [s] Neutrals, or at a Gaze, until they ſaw what would become of him; witneſs that of the Earl of *Cheſter*, who executed the Office of Sheriff by his Deputies, for the Counties of *Salop* and *Stafford*, in the 2*d*. 3*d*, 4*th*, 5*th*, 7*th*, and part of the 8*th*. of *Henry* the *third*, for the County of *Lancaſter* in the 3*d*. 4*th*, 5*th*, 6*th*, and the latter end of the 16*th*. was ſeized of the whole [t] County and Lands of *Cheſter*, with Royal Juriſdiction, *Tenenda per Gladium ità liberè ſicut Rex ipſe tenebat Angliam per Coronam*, at the time of the general Survey of the *Conqueror* was Count *Palatine* thereof, had *nine* Mannors in *Barkſhire*, in *Devonſhire two*, in *Yorkſhire ſeven*, in *Wiltsſhire ſix*, in *Dorſetſhire ten*, in *Somerſetſhire four*, in *Suffolk thirty-two*, in *Norfolk twelve*, in *Hantſhire one*, in *Oxfordſhire five*, in *Buckinghamſhire three*, in *Glouceſterſhire four*, in *Huntingtonſhire two*, in *Nottinghamſhire four*, in *Warwickſhire one*, in *Leiceſterſhire twenty-two*; *fifteen* great Men of Eſtate in *Cheſhire*, his *Barons*, holding Lands of him and his Heirs, as *Willielmus Malbane*, *Giſlebertus de Venables*, *Rad' Venator*, &c. and was ſeized of that Mountainous part of *Yorkſhire* and *Weſtmoreland* called *Stanemore*.

[s] *Dugdale's Baronage.* 1 Tom. 44.

[t] *Dugdale's Baronage.* 1 Tom. 32 and 34.

Unto one of whoſe Deſcendants, or Family, King *Stephen* gave the City and Caſtle of *Lincolne*, with Licenſe to Fortify the Town thereof, and to enjoy it until he rendred unto him the Caſtle of *Tickhil* in *Yorkſhire*; granted likewiſe unto him the Caſtle of *Belvoir*, with all the Lands thereunto belonging; all the Lands of *William de Albini*, *Grantham* with all its *Soke* thereunto belonging, *Newcaſtle* in *Staffordſhire*, with the *Soke* of *Roely* in *com' Leic'*, *Corkeley* in *Lincolnſhire*, the Town of *Derby* with the appurtenances, *Mansfield* in *com' Nott'*, *Stonely* in *Warwickſhire* with their appurtenances, the Wapentake of *Oſwardbeck* in *com' Nott'*, and all the Lands of *Roger de Buſly*, with the Honour of *Blythe*, and all the Lands of *Roger de Poictou*, from *Northamptom* to *Scotland*, (excepting that which belonged to *Roger de Montbegon* in *Lincoln-*

Lincolnſhire) all the Lands betwixt the Rivers of *Ribble* and *Merſe* in *Lancaſhire*, the Lands which he had in Demeſne in the Manor of *Grimsby* in *com' Lincolne*, and all the Lands which the Earl of *Glouceſter* had in Demeſne in that Mannor, the Honour of *Eye*, *Nottingham*, Barony, and Caſtle, *Stafford*, and the whole County of *Stafford* (except the Fees of the Biſhop of *Cheſter*, Earl *Robert Ferrers*, *Hugh de Mortimer*, *Gervaſe Paganel*, and the Forreſt of *Canoc*, the Fees of *Alan de Lincolne*, *Erniſe de Burun*, *Hugh de Scoteny*, *Robert de Chalz*, *Raſe Fitz Oates*, *Norman de Verdun*, and *Robert de Staford*.

Odo, Biſhop of [u] *Baieux*, *William* the *Conquerors* half Brother, had *one hundred eighty-four* Mannors given him in *Kent*, *thirty-nine* in *Eſſex*, *thirty-two* in *Oxfordſhire*, [w] in *Hartfordſhire thirty-three*, in *Buckingham thirty*, in *Worceſterſhire two*, in *Bedfordſhire eight*, in *Northamptonſhire twelve*, in *Nottinghamſhire five*, in *Norfolk twenty-two*, in *Warwickſhire ſix*, in *Lincolnſhire ſeventy-ſix*, amounting in the whole to *Five Hundred Forty-Nine*, whereof *two hundred eighty* he gave, ſaith Mr. *Selden*, to his Nephew *de Molbraio*.

u *Dugdale's* Baronage. 1 Tom. 24. 72.

w *Seldens* Titles of honour.

Earl *John*, [x] afterwards King of *England*, had in the Life time of King *Richard* the *Firſt* his Brother, the Earldomes of *Cornwall*, *Dorſet*, *Somerſet*, *Nottingham*, *Derby*, and *Lancaſter*, with the then large Poſſeſſions thereof, and had in Marriage with *Iſabel* Daughter and Heir to the Earl of *Glouceſter*, that Earldom, together with the Caſtles of *Marleburgh*, *Ludgerſel*, Honours of *Wallingford*, *Tickhil*, and *Eye*.

x *Daniel* Hiſt. in the Life of King *R.* 1.

John Earl of *Surrey*, and *Suſſex*, had in *Yorkſhire* the great Lordſhip of *Conisgsburgh* in the [y] *Soke*, whereof were near *twenty-eight* Towns and Hamlets, *Weſttune* in *Shropſhire*, in *Eſſex twenty-one* Lordſhips, in *Suffolk eighteen*, in *Oxfordſhire Maple*, *Durham*, and *Gaddington*, in *Hantſhire Frebinton*, in *Cambridgeſhire ſeven*, in *Buckinghamſhire Brotone*, and *Cauretelle*, in *Huntingtonſhire*, *Chevevaltone*, with *three* other Lordſhips, in *Bedfordſhire four*, and in *Norfolk one hundred thirty-nine*, and the Caſtle of *Rigate* in *Surrey*, *Yale*, and *Bromfeild*, with their large Extents in *Shropſhire*, and was at the Battle of *Lewes* on the King's part.

y *Dugdales* Baronage. 1 *Tom.* 74.

Ralph de [z] *Mortimer* had given him by the *Conqueror* in *Berkſhire five* Mannors, in *Yorkſhire eighteen*, beſides divers Hamlets, in *Wiltſhire ten*, in *Hantſhire thirteen*, in *Oxfordſhire one*, in *Worceſterſhire four*, in *Warwickſhire*, *one*, in *Lincolnſhire ſeven*, in *Leiceſterſhire one*, in *Shropſhire fifty*, in *Herefordſhire nineteen*, beſides the Caſtle of *Wigmore*.

z ibid. 139 & 142.

And *Roger de Mortimer*, Earl of *March*, a Deſcendant of the ſame Houſe and Family, was in the Raigns of King *Edward* the *Firſt* and *Second*, beſides their former large Eſtates in Lands, ſeized

ſeized of the Town of *Droitwick*, and Chace of *Malverne* in *com' Wigorn'*, the Chaſe of *Cors* in *com' Glou'*, the Caſtle of *Trym* in *Ireland*, with its large Territory and Appurtenance, and in *VVales* the Caſtles of *Kentlies*, Dominion of *Melenith* and *Comott*, of *Duder*, Caſtle of *Radnor*, with the Territory of *VVarthre*, and Mannors of *Preſtmede* (or *Preſteigne*) and *Kineton*, Caſtles of *Ruecklas*, and *Pulith*, Caſtles and Lordſhips of *Bledleveny* and *Bulkedinas*, Caſtle and Mannor of *Nerberth*, Comots of *Amgeid*, and *Pennewick*, Caſtles and Dominions of *Montgomery* and *Bulkedinas*, Mannor and Hundred of *Cherbury*, Caſtle of *Dolvaren*, and Territory of *Redevaugh*, Town and Territory of *Ewyas*, Caſtles of *Kery* and *Rodewin*, Caſtle of *Dynebegh*, Caſtle and Cantred of *Buelch*, Comots of *Ros*, *Rowenock*, *Konuegh*, and *Dunnam*, and in *Somerſetſhire* the Caſtle of *Brugwater*, with *three* Mannors, *Bayliwick* of the Forreſts of *North Pederton*, *Exmore*, *Noreech*, *Chich*, *Mendip*, and Warren of *Somerton*, *three* Mannors in *Kent*, *one* in *com' Buck'*, and *one* in *Staffordſhire*, and kept in his Houſe a conſtant Table, in imitation of King *Arthurs* Round Table, for *one hundred* Knights.

King *Henry* the *Third*, after the Battle of *Eveſham*, gave unto his Son *Edmond* to hold to him and the Heirs of his Body the Earldom, Honour, and Lands of *Leiceſter*, and Stewardſhip of *England*, the Earldom, Honour, and Lands with the Caſtles, Mannors, and Lands of *Robert de Ferrers* Earl of *Derby*, and *Nicholas de Segrave*, the Cuſtody of the Caſtles of *Caermarden* and *Cardigan*, and Iſle of *Lundy*, the Caſtle of *Sherborne* in *com' Dors'*, the Caſtle of *Kenilworth* in *com' VVarwick*, with all the Lands thereunto belonging, the Honour, Earldom, Caſtle, and Town of *Lancaſter*, and was *Count Palatine* thereof, with their Appurtenances, together with the Caſtle of *Tutbury*, with its great Appurtenances in the County of *Stafford*, the Honour and Caſtle of *Monmouth*, the Honour, Town, and Caſtle of *Leiceſter*, with all the Lands and Knights Fees which *Symon de Montfort* had.

Whoſe Son and Heir *Thomas* Earl of *Lancaſter*, having as an addition to the great Eſtates in Lands, remaining unto him after his Father, divers other Mannors, Lands, and vaſt Poſſeſſions in the Right of *Alice* Daughter and Heir of *Lacy* Earl of *Lincolne*, appertaining to that Earldom, gave coſtly Liveries of Furrs, and Purple to Barons, Knights, and Eſquires attending in his Houſe, or place of Reſidence, and paid in the *7th.* Year of the Raign of King *Edward* the *Second*, *Six Hundred Twenty-Three* Pounds, *Sixteen* Shillings, *Six* Pence, (when a little Money went as far as a great deal now) to divers Earls, Barons, Knights,

Knights, and Esquires or Fees, and being in great Discord with King *Edward* the *Second* his Nephew concerning *Gaveston*, the *two Despencers* a Father and Son his Favourites, and some Grievances of the Nation complained of, and the *Pope* having sent *two Cardinals* into *England* to endeavour a Pacification betwixt them, they with the King, Queen, Archbishop of *Canterbury*, all the Bishops *Cum Comitibus, Baronibus & Magnatibus Regni* went to *Leicester* to have an Enterview and Treaty with the said *Thomas* Earl of *Lancaster*, whither the King being come, saith the Historian, *Occurrit ei* Thomas *Comes* Lancaster *die ei ex hac parte præfixo apud* Sotisbrig *stipatus pulcherrima multitudine hominum cum equis, quod non occurrit quempiam retroactis temporibus vidisse aliquem Comitem duxisse tam pulchram multitudinem hominum cum equis sic bene arrâtorum scilicet* 18. *mille, cumque Rex & Comes obviarent, sine magna difficultate osculati sunt, & facti sunt chari Amici quoad intuitum circum astantium.*

a *Henry de Knighton, de eventibus Angliæ.* Lib. 3. p. 2533. and 2534.

In *Anno* 46. *Henry* the *Third*, the King b granted to *John* Earl of *Richmond* the Honour and Rape of *Hastings* in *com' Sussex*, and in *Anno* 29. the Honour of *Eagle* and Castle of *Pevensy* in *com' Sussex*, to whose Ancestors *William* the *Conqueror* had before granted all the *Northern* part of the County of *York* called *Richmond*, being formerly the Possessions of Earl *Edwyn*, a *Saxon*.

b *Dugdale's* Baronage 1 Tom. 46. 50. and 51.

Godfrey Bishop of *Constance* in *Normandy*, was Lieutenant General under *William* the Conqueror, at the Battle of *Hastings*, unto whom he gave 28 Manors, which he left unto his Nephew *Robert* Earl of *Moreton* in *Normandy*, and by his Mother Brother unto the Conqueror had the Earldom of *Cornwal* given him, and therein 284 Manors, seven in *Sussex*, 54 in the Borough of *Petersey*, in *Devonshire* 75, and a Church and House in *Exeter*, in *Yorkshire* 197, in *Wiltshire* five, in *Dosetshire* 49, in *Suffolk* 10, in *Huntingtonshire* one, in *Cambridgeshire* five, in *Hertfordshire* 13, in *Buckinghamshire* 29, in *Glouceſtershire* one, in *Northamptonshire* six.

Richard Earl of *Cornwal* had in the 11th of *Henry* the *Third*, a Grant of the whole County of *Rutland*, in *Anno* 15. of the Castle and Honor of *Wallingford*, with the Appurtenances, and the Manor of *Watlington*, all the Lands in *England*, which Queen c *Isabel* the King's Mother held in Dower, the whole County of *Cornwal* with the *Stanneries* and Mines, the Castle and Honor of *Knaresburgh* in the County of *York*, the Castle of *Lidford*, and Forrest of *Dertmore*, the Castle of *Barkhamsteed*, with the Appurtenances in the County of *Hartford*, with many Knights Fees, Advowsons, Free Warrens, Liberties, *&c.*

c *Ibid.* 226. 763.

In the Raign of *Henry* the *Third*, *William de Valence*, afterwards Earl of *Pembroke*, was seized of the Castle of *Hartford*, with the Appurtenances of the Manors of *Morton* and *Wardon* in *com' Glouc'*, *Chirdisle*, and *Policote* in *com' Buck'*, *Compton* in *com' Dors'*, *Sapworth*,

Colingborow, *Swindon*, *Jutebeach*, and *Boxford* in *com' Wilts'*, *Sutton*, and *Braborne* in *com' Kanc'*, and of Divers Manors and Lands in the Counties of *Surrey* and *Suſſex*.

* Ibid. 111. *Robert de Todeney*, * Father of *William de Albini*, built the Caſtle of *Belvoir*, and had *ſeventy-nine* Manors, with large Immunities and Priviledges thereunto belonging.

Allen Fergant, Earl of *Brittain* in *France*, married *Conſtance* Daughter of *William* the *Conqueror*, unto whom at the Siege of *York* he gave all the Lands of Earl *Edwin* in that County, *viz.* all thoſe Towns and Lands which were lately Earl *Edwins* in *Yorkſhire*, with Knights Fees, and Churches, with other Liberties and Cuſtoms, as freely and honourably as *Edwin* held them, dated at the Siege before *York*, which when given were gildable, that is, paid a Rent Tax or Cuſtom to the King, but by his favour they were changed into a Liberty or Honour, which was the Northern part of *Yorkſhire*, now called *Richmond*; being poſſeſt of thoſe Lands, he built a Caſtle and place of ſtrength by his Capital Manſion of *Gilling* for the defence and ſafety of his People and Tenants againſt the *Engliſh* and *Danes* then thruſt out of their Eſtates and Inheritances, and called it *Richmount*, according to the *French* denomination, which ſignifieth an Hill, it being ſcituated upon the higheſt and moſt pleaſant part of that Territory.

d Ibid. 451, and 452. *Bolebeck* of the County of *Buckingham*, at the time of *William the Conqueror's* Survey, was ſeized of *Ricote* in *com' Oxon'*, *Waltine* in *com' Hunt'*, and of *Miſſedene*, *Elmodeſham*, *Ceſteham*, *Medeinham*, d *Broch*, *Cetedone*, *Wedon*, *Cudoreton*, *Linford*, *Herulfmede*, & *Wavendon* in *com' Buck'*, and in 11th *Henry* the *Third*, one of that Family certified his Knights Fees holden of the King to be *eight*, of the Earl of *Buckingham twenty*.

Another of the ſame Name and Family, in the County of *Northumberland*, was enfeoffed of divers Lordſhips by King *Henry* the *Firſt*, one of whoſe Deſcendants in 12. *Henry* the *Second*, certified his Knighrs Fees *de veteri feoffamento* to be *four* and a half, and *three* and *two Thirds de novo*, and left Iſſue by *Margaret* his Wife, one of the Siſters and Coheirs of *Richard de Montfichet*, a great Baron of *Eſſex*, *Hugh de Bolebeck*, who in 4. *Henry* the *Third* was Sheriff of *Northumberland*, and poſſeſſed of *twenty-ſeven* Manors in that County, with the Grange of *Newton*, and the Moyety of *Bywell*.

e *Dugdale's* Baronage. *Tom.* 1. 340. The Lord *Clifford* and his Deſcendants was then, and not long after ſeized of the Borough of *Hartlepole* in the Biſhoprick of *Durham*; *three* Manors in e *Oxfordſhire*, *three* in *Wiltſhire*, *Frampton*, and part of *Lece* in *com' Glouc'*, *ſeven* in *com' Heref'*, *Corſham*, *Culminton*, and *three* other Manors in *com' Salop'*, the Caſtle of *Clifford* in *com' Heref'*, Manor of *Temedsbury* or *Tenbury*, and *five* other Manors in *com' Wigorn*, Caſtle and Manor of *Skipton* in *Craven*, Forreſt of *Berden*, the Chaſe of *Holesſdon*, the Towns of *Sylesdon* and *Skeildon*, with the Hamlets of

Swarthowe,

Swarthowe and *Bromiac*, *third* part of the Mannor and Priory of *Bolton* in *com' Eborum'*, Mannors of *Ekwick*, *Stranton*, and *Brorton* in *com' Northum'*, Caſtles and Mannor of *Apleby*, *Burgh*, *Pendragon*, and *Bureham*, the Wood of *Quintel*, *twenty-four* Mannors, and the Moiety of the Mannor of *Maltby* in the County of *Cumberland*, the Mannor of *Duſton*, and *eighteen* other Mannors in the County of *VVeſtmoreland*, together with the Shrievalty of that County to him and his Heirs, deſcended unto him from the Baron of *Vipont*.

VVilliam de Peverell, an illegitimate Son of *VVilliam* the *Conqueror*, had in the 2*d*. Year of his Raign (when all places of Truſt and Strength were committed to the King's chiefeſt Friends and Allies) the Caſtle of *Nottingham*, then newly Built, given unto him, and with it, or ſoon after, divers Lands in ſeveral Counties of a large Extent; for by the general Survey it appears, that he had then *forty four* Lordſhips in *Northamptonſhire*, *two* in *Eſſex*, *two* in *Oxfordſhire*, in *Bedfordſhire two*, in *Buckinghamſhire nine*, in *Nottinghamſhire fifty-five*, with *forty-eight* Trades-Mens Houſes in *Nottingham*, at *Thirty-Six* Shillings Rent *per Annum*, *ſeven* Knights Houſes and Bordars (of which the Honor of *Peverell* did conſiſt) in *Derbyſhire fourteen*, and *ſix* in *Leiceſterſhire*.

Roger de Montgomery, Earl of *Shrewsbury*, had in the Reigns of *VVilliam* the *Conqueror*, and his Son *VVilliam Rufus*, beſides great Poſſeſſions in *Normandy*, in *VViltſhire three* Lordſhips, in *Surrey four*, in *Hantſhire nine*, in *Middleſex eight*, in *Cambridgeſhire eleven*, in *Hartfordſhire one*, in *Glouceſterſhire one*, in *Worceſterſhire two*, in *Warwickſhire eleven*, in *Staffordſhire thirty*, in *Suſſex ſeventy-ſeven*, with the City of *Chicheſter*, and Caſtle of *Arundell*, [i] and in *Shropſhire* very many, near all that County, with the Caſtle and Town of *Shrewsbury*.

[i] *Dugdale's* Baronage. 26. 1 *Tom.*

Odo, Earl of *Albermarle* and *Holderneſs*, had ſhortly after the *Conqueſt*, given him by *William* the *Conqueror*, the large Territory of *Holderneſs*, with *fifteen* Mannors or Lordſhips in other Counties that would bear Wheat, becauſe he alledged that of *Holderneſs* would bear only *Oates*, and had in the Raign of King *Henry* the *Third*, the Barony of *Skipton* in *Craven*, [k] with *ſixteen* Knight-Fees, a Moyety of the Forreſt of *Allerdale Caldebec*, with the Mannor of *Cockermouth* in the County of *Cumberland*, the Bond Service of the Tenants in *Freſton*, a Member of *Bruſtwick* in *Holderneſs*, and in the right of *Iſabell* his Wife, the Caſtle of *Carisbrooke* and Iſle of *Wight*.

[k] *Dugdale's* Baronage. 60. and 64. 68. 1 *Tom.*

Robert [l] *de Stafford* was ſhortly after the Conqueſt ſeized of *two* Lordſhips in *Suffolk*, *one* in *Worceſterſhire*, *one* in *Northamp-*

[l] Ibid. 156.

thamptonſhire, *twenty* in *Lincolneſhire*, *twenty-ſix* in *Warwickſhire*, with *eighty-one* in *Staffordſhire*.

m Ibid. 174. *Walter* m *de Eureux* had ſhortly after the Conqueſt *two* Lordſhips in *Dorſetſhire*, *three* in *Somerſetſhire*, *one* in *Surrey*, *one* in *Middleſex*, *two* in *Hantſhire*, *two* in *Hartfordſhire*, *two* in *Buckinghamſhire*, and *thirty-one* beſides the Mannors of *Saresbury* and *Ambresbury* in *Wiltſhire*, and as Sheriff of that County received in Rent *one hundred* and *thirty* Hogs, *thirty-two* Bacons, *two* buſhels and *ſixteen* gallons of Wheat, and as much in Barley, buſhells and *eight* gallons of Oates, *thirty-two* gallons of Honey or *ſixteen* Shillings, *four hundred* and *forty-eight* Hens, *one thouſand* and *ſixty* Eggs, *one hundred* Cheeſes, *fifty-two* Lambs, *two hundred* Fleeces of Wool, having likewiſe *one hundred* and *ſixty-two* Acres of arable Lands, and amongſt the *Reves* Lands, to the value of *Forty* Pounds *per Annum*.

n Ibid. 254. *Baldwin* n *de Molis*, *ſecond* Son to *Gilbert Criſpin* Earl of *Beton*, Son of *Godfrey* Earl of *Eu*, natural Son of *Richard* Duke of *Normandy*, great Grand-Father to *William* the *Conqueror*, was one of the principal Perſons of the Laity, that won much Fame at the Conqueſt, and Marrying *Aldreda* a Neice of the Conqueror, had ſhortly after the Caſtle of *Exeter* granted unto him, and beſides *Mola* and *Sappo* had given unto him *Werne* in *Dorſetſhire*, *Apely*, *Portlock*, and *Mundeford* in *Somerſetſhire*, *one hundred* and *fifty-nine* Lordſhips in *Devonſhire*, and *nineteen* Houſes in *Exeter*.

To whoſe eldeſt Son *Richard* was alſo given the whole Honor and Barony of *Okehampton*, with the Shrievalty of the County of *Devon*.

o Ibid. 260. *Geffry Mandeville* o had given him by the Conqueror in *Barkſhire four* Mannors, in *Suſſex twenty-ſix*, in *Middleſex ſeven*, in *Surrey one*, in *Oxfordſhire three*, in *Cambridgeſhire nine*, in *Hertfordſhire nineteen*, in *Northamptonſhire ſeven*, in *Warwickſhire two*, in *Eſſex forty*, with *Hurley* and the Woods in *Barkſhire*.

p Ibid. 46. *Alan* Sirnamed p *Rufus*, or *Fergaint*, Son of an Earl of *Britany* in *France*, had given him by *William* the *Conqueror* the *Northern* part of the County of *York* called *Richmond*, which with what he had in *Yorkſhire* made *one hundred* and *ſixty-ſix* Lordſhips, beſides the Caſtle of *Richmond*, one called the *Deviſes* in *Wiltſhire*, in *Eſſex eight*, in *Hartfordſhire two*, in *Cambridgeſhire ſixty-three*, with *ten* Burgages in *Cambridge*, in *Herefordſhire twelve* Mannors, in *Northamptonſhire one*, in *Nottinghamſhire ſeven*, in *Norfolk eighty-one*, and in *Lincolneſhire one hundred* and *one*. Together with many others of the *Norman* Nobility, and Adventurers, who had great quantities of Lands and Poſſeſ-

ſions

ſions given unto them by that Conquerour of *England*.

And ſome of our *Engliſh* Nobility were ſo Great, Magnanimous, and Munificent, ¶ as at the Coronation of King *Edward* the *Firſt*, when *Alexander* King of *Scotland* his Brother-in-Law came from thence to *Weſtminſter*, to be preſent and do him Homage, Sir *Edmond* Earl of *Kent* the King's Brother, the Earls of *Cornewall*, *Glouceſter*, *Pembroke*, and Earl *Warren*, each of them by themſelves, *Led on their Hands* one hundred *Knights diſguiſe in their Armes, and whanne they weren alyght of theyr Horſe, they let them goo whedyr they wolde, and they that cowd them take had them ſtylle at their own lyking.* ¶ *Weavers* Funeral Mon. 456. *ex veteri.* M. S.

The great Anceſtors of whom, as well as thoſe that ſtood with or againſt King *Henry* the *Third*, or were but as ſad Spectators of thoſe tragick Wars, had in their Hoſpitalities, and huge quantities of Lands holden of them, as may appear by their Certificates of Knights Fees recorded in one part of the Book called the *Red-Book* of the *Exchequer*, happily preſerved from the Conflagration or great *London* Fire, ſeveral Forreſts, Parks, and Chaſes, with multitudes of Caſtles in ſome of their Poſſeſſions, had been the Procurers of many of their own and the common peoples Liberties and Priviledges in the often confirmed *Magna Charta*, and *Charta de Foreſta*, with divers great Priviledges, Fairs, and Markets, and had given unto them large Commons of Paſture and *Eſtovers*, and by their Grants of Markets and Fairs, and likewiſe by their very many Advowſons, and Patronages of Churches of a great part of which they had been the Founders, Builders, and glebe Endowers, had to their Spiritual Eſtates laid upon the Commonalty as great Obligations of Gratitude, as they had in the before-recited Temporal Favors and Benefits; beſides their granting of Leaſes of part of their demeſne Lands at ſmall Rents, with reſervation of ſome Service, in permitting their Charity and good Will in Copy-hold Lands to Tenants or Servants, or their Widdows or Children, which at the firſt was but at the Will of the Lord, or for Life or Years to continue and breed into a cuſtom of Inheritance, *Secundum conſuetudinem manerii*, and enfranchiſed and made many of them Free-holders, permitted many Copy-hold Fines incertain to be made certain, where they had been anciently at the Will of the Lord, and to be limited by the Chancery or Courts of Juſtice, to the Rent of two Years improved Value, and when they do in theſe later times demiſe any part of their demeſne Lands to a Tenant for *twenty-one* Years, now that the legal Uſury or Intereſt for Money is but *ſix per cent.* for *ten* Years purchaſe

purchaſe do take, (as many Landlords do now Money before hand at a chargeable Intereſt) and next to the manifold reiterated Bleſſings of the God of Heaven and Earth, together with the favours and benefits of the Elements, and ſuperior Regions, and aſtral Influences, by and under the divine Providence, were as much Bleſt and Happy under their Kings, Princes, Biſhops, and Nobility, as any Nation or common People of the World could be, or expect to be, in their Properties, Liberties, Protection, and Priviledges, whom thoſe great Barons, and Lords Spiritual and Temporal could not imagine, would ever be able either to forget the Good, which they and their Fore-Fathers had received, and they and their after-Generations were like to enjoy under them; or get looſe from thoſe many great Ties and Obligations of a never-to-be-forgotten Gratitude, which they had upon them, but thought themſelves very ſecure from any danger that might happen by any of their Incroachments or Uſurpations, by placing any Power, or but a Semblance of Authority for once in the lower Ranks of the People; nor could have believed, that the common People of *England*, after their ſolemn Proteſtations to preſerve them, and the Government, could after the Murder of their King in their laſt horrid Rebellion, have Voted them to be uſeleſs and dangerous, and being unwilling to leave any of the Divels their Maſters buſineſs unfiniſhed, did ſolemnly enforce the deluded Seditious People, under as many ſevere Penalties as they could lay upon them, not any more to ſubmit to any Government by a King and Houſe of Lords, to whom our Kings had given no Power to make their own Choice, but lodged and onely entruſted it in the Sheriffs, many of which the rebellious Barons had by Uſurpation [r] of the King's Authority provided before hand to be at this preſent of their own Party, or were like to be ſo, or under their Awe and Guidance, wherein they were perceived by the King ſome Years before, upon their ill-gained Proviſions at *Oxford*, to have been very diligent in making Sheriffs of their own Party, thoſe great Offices being in thoſe times and many Years before, and ſome few Years after, alwayes put into the Hands and Truſt of the Baronage, or Men of great Eſtate and Power.

[r] *Ro. Pat.* 45. H. 3. M. 3. and 8.

Whoſe Number by Tenures, and Summons by Writs to our King's great Councels or Parliaments, Creations or Deſcents, accounted in the Raign of King *Henry* the *Third*, to be no leſs than *Two Hundred* and *Forty*, if not many more, and like the tall and ſtately Cedars of our Nation might well deſerve

deſerve the Titles of *Proceres* and *Magnates*, eſpecially when many or moſt of them were in their Greatneſs, Goodneſs, and Authority in their ſeveral Stations, like the Tree which *Nebuchadnezzar* [f] ſaw in his Viſion high and ſtrong, *The height whereof reached to the Heaven, the leaves were fair, and the fruit thereof much, the beaſts of the field had ſhadow under it, and the fowles of the heaven dwelt in the boughs thereof*, and as *ex pede Herculem*, the Length and Greatneſs of *Hercules*'s Foot, declared the vaſt Proportion and Magnitude of the reſidue of his Body, it was eaſy to compute, how little were then the Common People, how great the Nobility, whom the *Brittaines* ancient Inhabitants of our Iſle, as the Learned *Francis Junius* the Son of the no leſs Learned *Francis Junius* hath obſerved, juſtly ſtiled them *Lhafords* Lords, and their Wives *Lhafdies* Ladies, becauſe they uſually gave Bread and Suſtenance to thoſe that wanted it, gave Licenſe of Marriage to the Widdows of their Thanks by Knight Service, puniſhed their Tenants, ſo holding their Lands by Writ of *Ceſſavit per Biennium*, and a Forfeiture if not redeemed was Entituled to a Writ of *Contra formam Collationis* for not performing the Duties and Offices of their Endowments, and the large Revenues and Emoluments appropriated thereunto.

[f] Prophet *Daniel* 4. ver. 11. and 12.

And with the many Acceſſions, and Devolutions of other Mannors, Lands, Revenues, Eſtates, Baronies, Titles of Honour, and Offices of State, by Marriages, Deſcents in Fee, or remainders in Fee-tail, munificent Guifts and Grants of their Kings and Princes, upon Merit and great Services done for them and their Country, or by Purchaſes guarded by the ſtrength of the Statute *De donis* [t] *Conditionalibus*, made in the 13*th.* Year of the Raign of King *Edward* the *Firſt*, with the Tye and Obligation of their Tenures, and the Reſtraints of Alienation, made them to be ſuch *Grantz & Magnates*, as the common People did in their Diſſeiſins, Intruſions, and Outrages done one unto another, which in the elder times were very frequent, colour and Shelter [u] thoſe Injuries by or under ſome Title or Conveyances made unto ſome of the Nobility or great Men of the Kingdom, which cauſed ſome of our Kings to grant out Commiſſions of *Ottroy le Baſton*, vulgarly called *Trail Baſton*, to find out and puniſh ſuch Evil doings, and by the making of ſome of our later Laws, to reſtrain the giving of Liveries, ſo as until the Writs of Summons granted by King *Edward* the *Firſt*, in the 22*d.* Year of his Raign, to Elect ſome Knights of the Shires, Citizens, and Burgeſſes, to give their Aſſent in Parliaments to ſuch Laws

[t] 13. *E.* 1.

[u] *Daniel* 200. Sir *Richard Bakers* Chronicle. 211.

and

and Things, as by the advice of his Lords Spiritual and Temporal ſhould adviſe, ſhould by him be ordained (there having been an Intermiſſion of thoſe, or the like kind, of Writs of Summons from the firſt Contrivance thereof, in the time of the Impriſonment of King *Henry* the *Third*, in the 49*th*. Year of his Raign) it was and ought to be believed, as a matter or thing agreeable to Truth, right Reaſon, and the Laws and Records of the Kingdom, that the Commons and Freeholders of *England* were long before, and for many Ages paſt, as ancient as the *Britiſh* Empire and Monarchy, were to be no part of our Great Councels or Parliaments, were never Summoned or Elected to come thither, but had their Votes and Eſtates, and well Being, as to thoſe great Councels, included in the Lords Spiritual and Temporal, and as to their aſſent or diſſent, good or ill liking repreſented by them, and retaining their well deſerved Greatneſs, were ſo potent and conſiderable, as *Gilbert de Clare* Earl of *Gloucester*, could after the Battle of *Eveſham*, where he had Fought for the King, March with a formidable Army, compoſed for the moſt part of his own Servants, Tenants, Reteiners, and Dependants from the Borders of *Wales* to *London*, quarrel and capitulate with his King, that had been but a little before extraordinary Victorious, and with *John Warren* Earl of *Surrey*, did after the Death of King *Henry* the *Third*, before the Return of his Son Prince *Edward* from the Wars in the Holy-Land, to take the Crown upon him, at the Solemnization of the Funeral of the deceaſed King, in the Abbey-Church of *Weſtminſter*, [w] with the Clergy and People (there Aſſembled) without their Licenſe and Election, go up to the high Altar, and ſwear their Fealty to the abſent King *Edward* the *Firſt* his Son.

[w] *Mathew Weſtminſter* & Ro. Claus. 1. Ed. 1. M. 1.

So beloved, feared, and followed, as the great Earl of *Warwick* was ſaid in ſome of our Hiſtories to have been the Puller down, and Setter up of Kings, could with the Earl of *Oxford* in the dire Conteſts betwixt King *Henry* the *Sixth*, and *Edward* the *Fourth*, for the Crown of *England*, reſcue and take by force King *Henry* the *Sixth* out of the Tower of *London*, where he was kept a Priſoner, attend him in a ſtately and numerous Proceſſion to the Cathedral Church of St. *Paul*, the one carrying up his Train, and the other bearing the Sword before him to the Church, where they Crowned him, and after a Frown of Fortune, did ſtoutly, by the help of the *Lancaſtrian* Party, give Battle to King *Edward* the *Fourth* at *Barnetfield*, where but for a Miſtake of *Oxford*'s and *Warwick*'s Soldiers,

diers, and their Banners and Badges, fighting one againſt the other in a Miſt, inſtead of King *Edward* the *Fourth*'s Men, they had in all Probability prevailed againſt him.

And the Intereſt, Alliance, and Eſtate of that Earl of *Oxford* was ſo great notwithſtanding ſhortly after in the Kingdom, as although he had very much adventured, ſuffered and done for King *Henry* the *Seventh*, led the Vanguard for him at *Boſworth* field againſt King *Richard* the *Third*, and eminently deſerved of him, as the Numbers and Equipage of his Servants, Reteiners, Dependants, and Followers did ſo affright that King, and muſter up his Fears and Jealouſies, as being ſumptuouſly Feaſted by him at *Hedingham* Caſtle in *Eſſex*, where he beheld the vaſt Numbers, goodly Array, and Order of them, he could not forbear at his Departure telling him, That he thankt him for his good Cheer, but could not endure to ſee his Laws broken in his Sight, and would therefore cauſe his Attorney General to ſpeak with him; which was in ſuch a manner, as that magnificent and cauſeleſly dreadful Gallantry did afterwards by Fine or Compoſition coſt that Earl *Fifteen-Thouſand* [x] Marks.

[x] Sir *Francis Bacon*'s Hiſtory of King *H.* 7. 211.

Did notwithſtanding their great Hoſpitalities, Magnificent manner of Living, founding of Abbies, Monaſteries, and Priories, many and large Donations of Lands to Religious Uſes, and building of ſtrong and ſtately Caſtles and Palaces, make no ſmall addition to their former Grandeurs, which thorough the Barons Wars, and long laſting and bloody Controverſies betwixt the two Royal Houſes of *York* and *Lancaſter*, did in a great Veneration, Love, and Awe of the Common People, their Tenants, Reteiners, and Dependants, continue in thoſe their grand Eſtates, Powers, and Authorities, until the Raign of King *Edward* the *Fourth*; when by the Fiction of common Recoveries, and the Miſapplied uſe of Fines, and more then formerly Riches of many of the common People, gathered out after the middle of the Raign of King *Henry* the *Eighth*, by the ſpoil of the Abbey, and religiouſly devoted Lands, in which many of the Nobility by Guifts and Grants of King *Henry* the *Eighth*, King *Edward* the *Sixth*, and Queen *Elizabeth*, in Fee or Fee-tail had very great ſhares, brought thoſe great Eſtates of our famous *Engliſh* Baronage to a lower condition, than ever their great Anceſtors could believe their Poſterities ſhould meet with, and made the Common People, that were wont to ſtand in the outward Courts of the Temple of Honour, and glad but to look in thereat, fondly imagine themſelves to have arrived to a greater degree of Equality than they ſhould claim, or can tell how to deſerve.

And might amongſt very many of their barbarouſly neglecting Gratitudes remember, that in the times in and after the *Norman* Conqueſt, when Eſcuage was a principal way or manner of the Peoples Aides, eſpecially thoſe that did hold in *Capite* or of Meſne Lords under them, to their Soveraign for publick Affairs or Defence, the Lords Spiritual and Temporal being then the only parts of the Parliament under their Soveraign, & the ſole Grand Councel of the Kingdom under him, did not only Aſſeſs in Parliament, and cauſe to be leavied the Eſcuage, but bear the greateſt part of the Burden thereof themſelves, that which the common People did in after times in certain proportions of their Moveables, and other Eſtates, or in the *Ninth* Sheaf of Wheat, and the *Ninth* Lamb, being until the Diſſolution of the Abbies and Monaſteries in the latter end of the Raign of King *Henry* the *Eighth*, when they were greatly enriched by it, did not bear ſo great a part of the Burdens, Aides, or Taxes, or much or comparable to that which lay upon the far greater Eſtates of the Nobility, there having been, in former Times, very great and frequent Wars in *France* and *Scotland*; & no Eſcuage, ſaith Sir [y] *Edward Coke*, hath been Aſſeſſed by Parliament ſince the 8*th*. Year of the Raign of King *Edward* the *Second*.

[y] *Coke* 1. Inſtitut. *Lib.* 2. *Cap.* 3. *Tit.* Eſcuage *Mat.* Paris.

Howſoever the Commons, and Common People of *England* (for all are not certainly comprehended under that Notion) their Anceſtors before them and their Poſterities and Generations to come after them, lying under ſo great and continued Obligations, and bonds of an eternal Gratitude and Acknowledgement, to the Baronage and Lords Spiritual and Temporal of *England* and *Wales*, for ſuch Liberties and Priviledges as have been granted unto them, with thoſe alſo which at their Requeſts and Purſuits have been Indulged or Permitted unto them by our and their Kings and Princes ſucceſſively, will never be able to find and produce any Earlier or other Original for the Commons of *England*, to have any Knights, Citizens, or Burgeſſes, admitted into our Kings and Princes great Councels in Parliament, until the aforeſaid impriſonment of King *Henry* the *Third*, in the 48*th*. and 49*th*. Year of his Raign, and the force which was put upon him by *Symon Monfort* Earl of *Leiceſter*, and his Party of Rebels.

SECT.

SECT. XII.

That the aforesaid Writ of Summons made in that King's *Name to Elect a certain Number of Knights, Citizens, and Burgesses, and the* Probos homines, *good and honest Men or Barons of the Cinque Ports, to appear for or represent some part of the Commons of* England *in Parliament, being enforced from King* Henry *the* Third, *in the* 48th. *and* 49th. *Year of his Raign, when he was a Prisoner to* Symon de Montfort *Earl of* Leicester, *and under the Power of him, and his Party of rebellious Barons, was never before used in any* Wittenagemots, Mikel-gemots, *or great Councels of our Kings or Princes of* England.

FOr, saith the very learned and industrious Sir *William Dugdale* Knight, *Garter* King of Armes, unto whom that Observation by the dates of those Writs is only and before all other Men to be for the punctual, particular, expres, and undeniable Evidence thereof justly ascribed, which were not entered in the Rolls (as [z] all or most of that sort have since been done) but two of them, three saith Mr. *William Pryn*, instead of more in *Schedules* tacked, or sowed thereunto:

[z] *Dugdale's* Origenes juridiciales. 13. *cap.* 4, and 5. *Pryn's* Animadversions upon Sir *Edward Cokes* 4. part of the Institutes.

For although Mr. *Henry Elsing*, sometimes Clerk to the Honourable House of Commons in Parliament, in his Book Entituled, *The ancient and present manner of holding Parliaments in* England, [a] Printed in the Year 1663. but Written long before his Death, when he would declare by what Warrants the Writs for the Election of the Commons assembled in Parliament, and the Writ of Summons of the Lords in Parliament were procured, saith, That King *Henry the Third*, in the *49th.* Year of his Raign, when those Writs were made, was a Prisoner to *Symon de Montfort*, and could not but acknowledge, that it did not appear unto him by the first Record of the Writs of Summons now extant, by what Warrant the Lord Chancellor had in the *49th.* Year of the Raign of that King, caused those Writs of Summons to Parliaments to be made.

[a] *Elsing's* ancient and present manner of holding Parliaments of *England.*

Howbeit most certain it is, saith Sir *William Dugdale*, That those Writs of Election, made in the Name of King *Henry* the *Third*, to send Knights and Burgesses to the Parliament, were by a Force put upon his Great Seal of *England*, as much as upon himself, when they had him as a Prisoner of War in their Custody, and kept him so, as our Chronicles, Histori-

ans, and Annals [b] have Recorded it, for an Year and a quarter, carrying him about with them to countenance their rebellious Actions; for the Battle of *Lewis*, wherein he was made a Priſoner, was upon the 14*th* of *May* in the 48*th*. and that of *Eveſham*, which releaſed him, the 4*th*. day of *Auguſt*, in the 49*th*. Year of his Raign.

[b] Sir *Richard Bakers* Chronicle. 96. *Sam. Daniel* Hiſt. 180. *Dugdale's Baronage* tit. *Mortimer* 141 in margine.

And there is no Teſtimony [c] or Record to be found of any other the like Writ of Election made afterwards, untill the 22*d*. Year of King *Edward* the *Firſt*, although there were ſeveral Parliaments, or *Magna Concilia* convocated, and held in the mean time; and if our Anceſtors had not been ſo miſled and abuſed by the Rebels in the Raign of King *John*, and his Son King *Henry* the *Third*, there are enough yet alive, who can ſadly remember, how a more tranſcendantly wicked hypocritical Party have ſince adventured to make out and frame, until they had Murthered him, counterfeit Writs, Commiſſions, and Summons of Parliament, in the Name of our Religious King *CHARLES* the *Martyr*, and make as much as they could His Royal Authority to Fight againſt His Perſon.

[c] *Ro. clauſ.* 22. E. 1. m. 4. *in dorſo.*

And there is no Certainty or pregnant Evidence, ſaith Mr. *William Pryn*, who being a Lawyer, and a long and ancient Member of the Houſe of Commons in Parliament, did ſo much adore the Power and Preheminence thereof, as adventuring the Loſs of his Eſtate, Body and Soul with them therein, could find no better a Foundation or Pedigree to beſtow upon them, than the Captivity and Impriſonment of a diſtreſſed unfortunate King, but ſaith, That there were not any Knights, Citizens, Burgeſſes, or Houſe of Commons, in the Confeſſors, or Conquerors Raigns, or any of our *Saxon* or *Daniſh* Kings; nor before the latter end of King [d] *Henry* the *Third*'s Raign; for although *Polydore Virgill*, and others do refer the Original of our Parliaments to the Council holden at *Saliſbury* in the 16*th*. Year of King *Henry* the *Firſt*, there is not one Syllable in any of our ancient Hiſtorians concerning Knights, Citizens, and Burgeſſes preſent in that Councel, as ſaith the Learned Sir *Henry Spelman*, in theſe words, *viz.*

[d] *Pryns* Animadverſions upon Sir *Edward Cokes* 4 part of the Inſtitutes p 2. and in his Regiſter or Survey of Parliamentary writs 304.

Rex perindè qui totius regni Dominus eſt Supremus, regnumque univerſum tàm in perſonis Baronum ſuorum quàm è ſubditorum Ligeancia ex jure Coronæ ſuæ ſubjectum [e] *habet, Concilio & aſſenſu Baronum ſuorum Leges olim impoſuit univerſo regno, & conſentire inferior quiſque viſus eſt in perſona Domini ſui Capitalis, prout hodiè per Procuratores Comitatûs, vel Burgi, quos in Parliamento* Knights and Burgeſſes *appellamus, Habes morem veteram quem Mutâſſe ferunt*

[e] *Spelmans* Gloſſar' tit. *Parliament.*

Henri-

Henricum Primum *Anno regni ſui ſextodecimo, plebe ad concilium* Sarisberienſe *tunc accitâ, hæc vulgaris opinio, quam typis primus ſparſit* Polydorus Virgilius, *acceptam ſubſequentes Chronographi, nos ad authores illius ſeculi prouocamus.*

And refuting that Opinion [f] by *Neubrigenſis* (who lived about that time, and relates the purpoſe of that Great Councel in theſe words, *Facto concilio eidem Filiæ ſuæ ſuſceptis vel ſuſcipiendis ex eis nepotibus ab Epiſcopis Comitibus Baronibus & omnibus qui alicujus videbantur eſſe momenti*; and likewiſe by *Florentius Wigornienſis, Eadmerus* and *Huntington*, further ſaith, *Ludunt qui Parliamenta noſtra in his quærunt ſine ut ſodes dicam collegiſſe mecentenas (reor) conciliorum coitiones, tenoreſque ipſos plurimorum ab ingreſſu* Gulielmi 1^mi *ad exceſſum* Henrici 3^i *exiſtentium, nec in tanta multitudine de plebe uſpiam reperiſſe aliquid, nì in his delituerit Seniores, ſapientes populi*, which he conceives to be only *Aldermanni, Sapientes* or *Barones, & Magnates regni*, not the Commons.

[f] Neubrigenſis.

And it hath been well obſerved by the learned Author of the *Notæ & Adverſaria in hiſtoriam* Mathæi Pariſienſis, That in the ancient Synods, before the ſubduing of *England* by *William* Duke of *Normandy, conficiebantur chartæ donationum publicæ & de gravaminibus Reipublicæ brevitèr inter Regem & Magnates, Epiſcopos & Abbates conſultabatur, id enim tunc dierum erat Synodus quod nunc ferè Parliamentum, niſi quod non rogabantur leges per plebiſcita, nec ſanciebantur Canones per ſuffragia minoris Cleri.*

And was as novel and new, as it was unexpected, no ſuch Writ having ever before been framed or made uſe of, to ſuch or any the like purpoſe.

And Mr. *Selden* likewiſe ſaith, That the Earls and Barons mentioned or directed by thoſe compelled then Writs of Summons, to come to that pretended Parliament, were only the Earls of *Leiceſter, Glouceſter, Oxford, Derby, Norfolk, Roger de Sancto Johannis, Hugh le Deſpencer, Juſticiar' Angliæ, Nicholas de Segrave, John de Veſcy, Robert Baſſet, G. de Lucy*, and *Gilbert de Gaunt.*

Of which the Earls of *Leiceſter, Glouceſter, Norfolk, Oxford*, and *Derby*, were notoriouſly known to have been in open Armes and Hoſtility againſt the King. The whole Number of the Temporal Lords therein named, not amounting unto more than *Twenty-Three*, with a Blank left for the Names of other Earls and Barons, which have not been yet inſerted or filled up.

And all the other, which were in that conſtrained Writ of Summons particularly and expreſly named, were no other than *H. de le Spencer, Juſticar' Angliæ, John Fitz-John, Nicholas de Segrave,*

grave, *John de Veſcy*, *Rafe Baſſet de Drayton*, *Henry de Haſtings*, *Geffery de Lucie*, *Robert de Roos*, *Adam de Novo Mercato*, *Walter de Colvill*, and *Robert Baſſet de Sapcott*, which together with the then Biſhops of *London*, and *Worceſter*, *Symon de Montfort* Earl of *Leiceſter*, and Steward of *England*, *H. de Boun juvenis*, *Peter de Monteforti*, & *S. de Monteforti juvenes*, *Baldwin Wake*, *William le Blond*, *William Mareſcallus*, *Rafe de Gray*, *William Bardolff*, *Richard de Tany* (or *Tony*) and *Robert de Veteri Ponte*, made up the Number of the oppoſite Party to that King in the aforeſaid Reference to the King of *France*.

g *Mat. Paris.* 41. H. 3. p 1283. & *Selden.* tit. *honor* 716, and 719.

h Dors. Ro. Claus. 2. E. 1. Dors.claus.50 E. 3. part 2. m. 6.

i *Elſings* ancient and preſent Manner of holding Parliaments, *ca.* 2. *p.* 22. 23, and 24.

And Mr. *Selden* g hath obſerved, That the Preambles of the ancient Parliament-Writs, for the Snmmoning of the Baronage, ſometimes ſo varied, that ſome eminent occaſions of the calling of the Parliament were inſerted in the Writs h to the Spiritual Barons, that were not in thoſe to the Temporal, and often times no more than a general and ſhort Narrative of our King's Occaſion i of having a Parliament with much variation in the Writs of that nature, with many differences of ſlighter Moment expreſſed, and ſometimes in all a Clauſe *Againſt coming attended with Armes*, and that until the middle of the Raign of King *Richard* the *Second*, when the Dukes, Earls, and Barons, were Created by Letters Patents of our Kings; the Names of the Barons to be Summoned in Parliament, were Written from the King's own Mouth at his Direction and Command; and in that agreeth with Mr. *Elſing*, who ſaith, It was *ad libitum Regis*, for ſurely none but the King can Summon a Parliament, and that was the reaſon that *Henry* the *Fourth*, having taken King *Richard* the *Second* his Leige and Lord Priſoner, the 20*th*. day of *Auguſt*, in the 21*ſt*. Year of his Raign, did cauſe the Writ of Summons for the Parliament, wherein he obtained the Crown to bear Date the 19*th*. day of the ſame Month, for the Warrant was *Per ipſum Regem & Concilium*, and himſelf to be Summoned by the Name of *Henry* Duke of *Lancaſter*.

SECT.

SECT. XIII.

That the Majores Barones regni, *and Spiritual and Temporal Lords with their Aſſiſtants, were until the* 49th. *Year of the Raign of King* Henry *the* Third, *and the conſtrained Writs iſſued out for the Election of Knights, Citizens, and Burgeſſes, whilſt he was a Priſoner in the Camp or Army of his Rebellious Subjects, the only great Councel of our Kings.*

FOr the Barons of *England*, viz. the Lords Spiritual and Temporal, with ſome other wiſe and ſelected Men, which our Kings did anciently, and upon Occaſions call into that Aſſembly, were the Great Council of the Kingdom, and before and from the *Conqueſt*, until a great part of the Raign of King *Henry* the *Third* (in whoſe dayes, ſaith Mr. *Elſing*, it is thought the Writs for Election of Knights and Burgeſſes were framed) made the Great Councel of the Kingdom, and under the name of Barons, not only the Earls, but the Biſhops alſo were comprehended, for the *Conqueror* Summoned the Biſhops to thoſe great Councels, as Barons; and in the Writ of Summons (made as aforeſaid in the Captivity and Troubles of King *Henry* the *Third*) we find the Biſhops and Lords with ſome Abbots and Pryors to be the Councellors, and the Commons only called to do, perform, and conſent unto what ſhould be ordained.

And Mr. *Selden*, and Sir *Henry Spelman* have by divers Inſtances, and warrantable Proofs declared unto us, That the Biſhops, and Lords only were admitted into the *Wittenagemots*, or great Councels, which were wont in and after the Raigns of the [k] *Saxon* Kings to be kept at the three great Feſtivals in the Year, *viz. Eaſter*, *Whitſontide*, and *Chriſtmaſs*, [l] when the Earls and Barons came to pay their Reſpects and Reverence to their Soveraign, and give an Account of what was done, or neceſſary to be known or done in their ſeveral Provinces and Charges, and what was fit to be Conſulted thereupon, and were then accuſtomed to meet, and Aſſiſt their Kings and Soveraigns with their Advice and Counſel.

k Hiſt. *Eadmeri.*

l *Spelmani* concilia Eccleſiaſtic. 347.

Which [m] was ſo conſtantly true, as *Anteceſſores Comitis* Arundel *ſolebant tenere manerium de* Bylſington *in com' Kanc. quod valet per Annum* 30. l. *per Serjeantiam eſſendi Pincernam Domini Regis in die Pentecoſtes*, & Ela *Comitiſſa* Warwick *tenuit manerium de* Hoke Norton *in com.* Oxon, *quod eſt de Baronia de* Oyley *de Domino Rege in capite per Serjeantiam ſcindendi coram domino Rege die Natalis*

m Placita. Coron. 21. E. 1. Ro. 27. Kanc.

Placita Coron. 13. E. 1. Ro. 80.

talis Domini & habere Cultellum domini Regis de quo ſcindit.

Roger de Britolio Earl of *Hereford*, being in Armes and open Rebellion againſt King *William* the *Conqueror* taken Priſoner, and Condemned to perpetual Impriſonment, wherein though he frequently uſed many ſcornful, and contumelious words towards the King, yet he was pleaſed at the Celebration of *Eaſter* in a ſolemn manner (as then was uſual) to ſend to the ſaid Earl *Roger* then in Priſon his Royal Robes, who ſo diſdained the Favour, that he forthwith cauſed a great Fire to be made, and the Mantle, the inner Surcoate of Silk, and the upper Garment lined [n] with precious Furs to be Burnt, which being made known to the King he became diſpleaſed, and ſaid, *Certainly he is a very proud Man, who hath thus abuſed me, but by the Brightneſs of God he ſhall never come out of Priſon, as long as I live;* which was fulfilled.

n *Dugdale's* Baronage. 1 *Tom.* 27.

In *Anno* 1078 William Rufus *tenuit curiam in natali domini apud* London *& Rex Anglorum* Willielmus, *cognomento* Rufus, *glorioſè curiam ſuam tenuit ad Natale apud* Gloverniam, *ad Paſcham apud* Wintoniam, *&. apud* Londonias *ad Pentecoſten.*

Et hic Conceſſus Ordinum regni, ſaith Sir *John Spelman, Sive totius regni Repræſentatio (quod intelligere convenit) ab* Alfredo *certis quidem vicibus, & ijs ordinariis,* [o] *non quaſi ejuſdem formæ & celebritatis eſſet, cujus & hodierna Comitia, quæ* Parliamentum *vulgò dicuntur, ſed ut quantum eſt in* Anglia *terrarum tunc aut unum ominò Regis erat, aut Comitum ejus atque Baronum, & qui ſub illis agros colerent eos Clientelari atque precario jure poſſederint, ut qui toti ab nutu dominorum penderent, ità quicquid ab iſto tempore ab Rege, Comitibus ejus atque Baronibus conſtitutum eſt, toto regno ſancitum erat, velut ab ijs tranſactum quibus in cæteros ſuprema & abſoluta poteſtas eſſet, adeoque reliquorum ſeu clientium & mancipiorum jura includeret.*

o *Johannes Spelman* filius *Henrici Spelmani* eruditiſſimus in vita *Alfredi Regis.* lib. 2. 115. & 116. *Mat. Paris* 1453.

Epiſcopos quod attinet hi magnis hiſce Concilijs nunquam non interfuerunt ſuiſque ſuffragijs leges ſanxerunt, nam præterea illud quod ob ſeculares fundos Barones vel ob ipſum ſacerdotis honorem ſacroſanctì cenſebantur, eâ inſuper ſapientiâ plerumque præſtabant, ut non tantùm ſuffragia Procerum æquiparârint, ſed & actis omnibus venerationem atque pondus addiderint, ab hoc Regis inſtituto manavit (uti videtur) mos ille poſteris Saxonibus non inuſitatus, ut concilia Epiſcoporum atque Magnatum tèr quotannis celebrarentur, nempe ad Domini Natales, Paſcha, atque Pentecoſten, ad conſultandum de arduis regni negotijs, neque id uno ſemper eodemque loco, ſed ubicunque res poſceret licet ferè ubi Rex cum Aulicis ageret præſens.

And in our Parliaments, as well Modern as Ancient, had a deliberative Power, as the moſt Learned *Selden* hath informed

formed us, [p] in adviſing their Kings in Matters of State, and giving their Aſſent in the making of Laws, and a judicial ſubordinate Power to their Kings in giving of Judgment in Suits or Complaints brought before them in the Houſe of Lords, or that *Magna Curia & Univerſitas regni*, [q] as *Bracton* ſtiles it; and whither in his time Cauſes were for difficulty adjourned from the other Courts of the Kingdom, unto which no Remedies could otherwiſe be given; and ſaith Mr. *Elſing*, All Judgments are given by the Lords as aforeſaid, and not by the Commons.

[p] *Selden* tit Honor 3 part *ca.* 5. 632. Sect. 6. Hiſt *Eadmeri.*

[q] *Bracton* de legibus & conſuetudinibus Angliæ. *Elſings* ancient and preſent manner of holding Parliaments in *England* 22.

And that very ancient, long experimented and well approved Cuſtom, appeareth not to have been diſcontinued or forgotten, when in the Parliament holden in the firſt Year of the Raign of King *Henry* [r] the *Fourth*, the Commons ſhewing to the King that *Comme les Juggements du Parlement appurteignont ſeulement au Roy & as Seigneurs & nient as Commones, ſi noun en caſe que ſil pleſt au Roy de ſa grace eſpecile leur monſtrer ſes ditz Juggements pur caſe d' eux, que nul record ſoit fait en Parlement encontre les ditz Communes, que ſont ou ſerrent partyes as eſcunes Juggementz donez ou adonees ou apres en Parlement.*

[r] 1. H. Ro. Parl. m. 79.

A quoi leur feuſt reſpondu per l' Erceveſque de Canterbire *de commandement du Roy, coment meſmes les Commones ſont Petitioners & demandeurs, & que le Roy & les Seigneurs de tout temps ont eves & averont de droit les Juggementz en Parlement, en manere come meſme les Comones ount Monſtrez, ſauvez quen Statutz Affaires ou en Grauntez & ſubſides ou tiel choſes Affaires pur comon profit du Royalme, le Roy voit avoir eſpecialment leur Advys & Aſſent, & que cel ordre de fait ſoit tenuz & gardez en tout temps adveniz.*

And the Earls and Temporal Barons, were by [f] vertue of their Tenures and Summons of Parliament, ſince the beginning of the Raign of King *Richard* the *Second*, ſaid to be *Conciliarij nati* of the King and Kingdom, and the Biſhops to ſit there then, and long before, by reaſon of their Baronies (which no Member of the Houſe of Commons is, or can claim to be) in our King's great Councels or Parliament, until the framing of that aforeſaid novel Writ to Elect Knights, Citizens, and Burgeſſes in the time of the Impriſonment of King *Henry* the *Third*, and after his Releaſe was diſcontinued, and no more made uſe of, until the 22*d.* Year of the Raign of King *Edward* the *Firſt* his Son, and the Heirs by ancient Cuſtomes of that Court, under and by the Kings Authority, do exerciſe in Cauſes and Complaints brought before them a judicial and deciſive Power.

[f] *Seldens* Tables of Honor.

And in the preceding Times and Ages, until that new Writ

of Elections was contrived and impoſed upon that diſtreſſed and much injured Prince; *Certiſſimum eſt*, ſaith that learned and judicious Antiquary Sir *Henry Spelman*, that the Nobility and Barons, which did hold immediately of the King *in Capite, judicijs præfuêre Aulæ Regiæ*, did uſually ſit and determine Cauſes or Controverſies in the King's Court or Palace, as the Barons [t] of the Coife in the Exchequer, who were heretofore Earls and Barons, do at this day judge and determine of Matters touching the King's Revenues.

t *Spelmans* Gloſſar'in verbo *Baro.*

And as the Lords [u] of Mannors in their Courts Barons do admit none to be Judges in thoſe their little Courts, but their Tenants, who are Free-holders, and do hold of them, and being ſtiled and ſaid to be of the Homage, do ſubſerviently manage the Affairs of their Lords therein, who did very anciently uſe to act therein, *Concilio prudentum hominum & militum ſuorum* by their Preſentments, Advice, and Judgements, and are therein not much differing from the Cuſtoms and Laws of the *Longobards*, where their Emperor commanded [w] that *Nullus Miles* (*nobiſcum* ſaith Sir *Henry Spelman Liber homo*) *ſine certâ & convictâ culpâ ſuam beneficium perdat, niſi ſecundum conſuetudinem Anteceſſorum noſtrorum et judicium Parium ſuorum.*

u *Seldens* tit? honour 689. 2 part ca. 5. Sect. 28.

w LL *Longobard* l. 3. tit. 8. l. 4. *Conrad.* imper. in *Knilenbrogio.*

In which, ſaith Sir *Henry Spelman*, *There is an Idea of our Magna Charta*, the Free-holders in the Hundred Courts being thither alſo called.

x *Spelman* in verbo Pares

Conformable to the League made by King *Alfred* with *Guthrun* the *Dane*, wherein *Homicide ſive de crimine alio quod quatuor marcas excederet poſtularetur per duodecim ex paribus, reliquos autem ſubditos per* 11 *Pares unumque ex Baronibus Regis fore judicandos.*

Fœdus *Ælfredi* cum *Guthrun*

And to the Laws of our King *Henry* the *Firſt*, wherein it was ordained, That *Unuſquiſque per Pares judicandus eſt, ſi quis in Curia ſua vel in quibuſlibet agendorum locis placitum tractandum habet, convocet Pares & vicinos ſuos, ſi inter compares vicinos ſint querelæ conveniant ad diviſas terrarum ſuarum, & qui prior queremoniam fecerit, prior rectum habeat, & ſi alias ire oporteat in Curiam domini ſui eant, ſi unum dominum habeant, & Soca ſit ejus, & illic eos amicitia congreget, aut ſequeſtret judicium.*

LL *Henrici* 1. ca. 31. 33. 57.

And may ſeem to be derived from the Laws and Cuſtoms of the *Germans*, [y] where by the Court of Peers are underſtood *Cauſarum feudalium Judices à Cæſare conſtituti, qui ſine provocatione cognoſcebant*, to be Judges appointed by the *Emperor* to hear and determine without appeal Matters concerning their Lands and Territories; where the like uſage and term of Peers in their Judicatures, Great Councels or Diets, is at this day uſed

y Scholia *Jacobi Spiegel.* in lib. 2. Ligurini Guntheri. 301. 302

Limnæus de jure publici imperii Romano Germanici 1 Tom. ca. 9. Sect. 49. 51. 52.

(the

(the Princes of the Empire being *Paribus curiæ)* and ſuch are thoſe of our Houſe of Peers in Parliament, being the higheſt Court of the Kingdom of *England*, where none were admitted or did adminiſter Juſtice, *Niſi qui proximi eſſent à Rege ipſiſque arctioris fidei & homagij vinculo conjuncti*, but ſuch as were near unto the King, and held of him *in Capite*; which kind of Tenures howſoever they were moſt unhappily Diſſolved by a late Act of Parliament in His now Majeſties Raign, for converting Tenures *in Capite* into free and common *Socage*, were by an Exception and Proviſo in the ſaid Act of Parliament, as to the Rights and Priviledges of the Peers in Parliament, ſpecially ſaved and reſerved unto them, who were heretofore *Capitanei regni*, as Sir *Henry Spelman* ſaith, Captains of the Kingdom, and Peers obliged and bound unto their Kings by Homage and Fealty in that higheſt and moſt honourable Court of the Kingdom; wherein the Judicative Power of Parliament under their King, their Head and chief Reſides, which high and honourable Aſſembly reverencing and taking Care for their Head and Soveraign, the only, under God, Protector of themſelves, the Church, and all their worldly Concernments and Liberties.

Spelman gloſſar' in verbis Baro Pares & Parliament.

Was ſo much uſed in *France*, as ſaith [a] *Conringius*, *Proceres temporibus Francorum, temporibus antiquiſſimis Concilio interfuiſſe plurimis quidem teſtimonijs in proclivi eſt*; and cites a Book written *per* Theganum *Chorepiſcopum* Trevirenſem *de geſtis* Ludovici *Imper'* Ca. 6. *ubi de* Carolo Magno *Imperatore legitur, Cùm intellexiſſet appropinquare ſibi diem obitus ſui, vocavit filium* Ludovicum *ad ſe, Epiſcopis, Abbatibus, & Comitibus loco poſitis, & habuit grande colloquium cum ijs* Aquiſgravi, *& eodem ſpectat procul dubiò* Hinckmari (who was a Biſhop and Councellor of *Charlesmaynes*) *illud concilium* Lodovico Baldo *datum epiſtolam, ut rempublicam adminiſtret, ex Procerum aut Principum conſenſu (nuſquam Plebis mentione facta) unde & epiſtolam illam claudens* Ca. 10. *Scribit de generalibus Eccleſiæ & Regni negotijs ſine generali Procerum regni conſenſu & concilio ſecretum dare concilium nefas etiam conſenſum deliberare nolo.*

[a] *Harmanus Conringius* de imper' German' 14. 15.

The King of *Scotland* hath as a Feudatory to our Kings of *England in fide & ligeancia* Sate in the Houſe of Peers in Parliament, by the Summons of King *Edward* the *Third*, in the 22*d.* and 25*th.* Years of his Raign, in a Chair of State ſet upon his Left hand.

Elſings ancient and preſent manner of holding Parliaments in *England*, 16 17. *& alibi.*

The Arch-Biſhops and Biſhops do enjoy the Priviledge and Honour of being preſent, by reaſon of their Baronies, which howſoever (ſome of them, not all) were given at the

firſt in *Frank Almoigne*, and as *Eleemosynary* are holden in *Capite*, & *debent* [b] *intereſſe judicijs Curiæ Regis cum Baronibus*, and are not to be abſent, ſaith the Conſtitution made at *Clarendon* in the 10*th* Year of the Raign of King *Henry* the *Second*; and that honourable Tenure of *Servitium militare* was accounted to be ſuch a Tye and Duty of Service incumbent upon the Biſhops, as well as the other Baronage, as any Neglect thereof was ſo pœnal unto them, as *Thomas Beckett*, the then ruffling and domineering Arch-Biſhop of *Canterbury*, notwithſtanding [c] all the Pleas and Defences which he could make, wherefore he came not to that great Councel or Parliament when he was Commanded, was Condemned in a great Sum of Money, the Forfeiture of all his moveable Goods, to be Guilty of High Treaſon, and be at the King's Mercy, and the reaſon was given of that Judgment, for that *Ex reverentia Regiæ Majeſtatis, & ex aſtrictione Ligij, Homagij, quod Domino Regi fecerat, & ex fidelitate & obſervantiâ terreni* [d] *honoris quem ei juraverat*, he ought to have come, but did not.

b Selden tit Honour 795. part. 2. ca. 5. Sect. 8.

c *Mat.* Paris. 200.

d *Selden* tit. Honor. 795. part. 2. ca. 5. Sect. 20.

For ſuch kind of Courts and Councels, where Kings and Princes, with the Lords Spiritual and Temporel, as their greater Tenants in *Capite*, did for mutual Aid, Aſſiſtance, and Counſel aſſemble and meet together, have been no Novelty or new Device amongſt the *Cimbri*, *Germans*, *Gothes*, *Francks*, *Longobards*, *Saxons*, and ſeveral [e] other *Northern* Nations, were brought unto us from them; amongſt whom Tenures in *Capite*, and by Knights-Service, more agreeable to Humanity, were juſtly eſteemed to be a better Foundation and Subſiſtency of the right Power and Conſervation of Soveraignty and Government, than that of the *Eaſtern* and *Southern* Princes was, where *Dura erit ſervitus Dominorum*, the condition of Servants was hard, and the ſeverity of Maſters, who had *Poteſtatem vitæ & necis*, Power of Life and Death over their Servants, very great and rigorous, and having nothing which they could call their own, but Miſery, were put to maintain their Maſters Luxury out of their Labours, and enduring *Viliſſima miniſteria*, all manner of Slaveries, *ab omni militia arcebantur*, were not ſuffered to know or have the uſe of Armes; but amongſt the *Northern* Nations there was a more juſt and gentle Uſage of the better part of their Servants, for that they did divide a great part of their Lands and Conqueſts amongſt thoſe their Servants and Soldiers, *Pactionibus interpoſitis inter Dominum & ſervientem de mutua Tutela*, with an eſpecial care to have thoſe Feudal Lands to remain to their Primogeniture Heirs Males, or the next Survivor of them, and ſaith *l' Oyſeau*, *ce fut un Droict*

e *Fabian Philips* tenenda non tollenda.

commun,

commun, que [f] *les Enfans maſles ſuccederoient au fief du Pere tous enſemble, & tel eſt le Droict des* Lombards, amongſt whom the Tenants were to redeem their Lords taken Priſoners with the Expence or Loſs of half their Lands; and ſaith *Martinus* [g] *Margerus à Schomberg, Vaſallus juramento fidelitatis tenetur, non ſolum Domino dammum per ſe & alios in rebus non dare, ſed etiam concilium & auxilium præſtare, nè dammum ab alijs incurrat.*

Vaſallus Domino contrà fratrem ſuccurrere tenetur.

Et contrà Filium pro Domino arma ſumere debeat.

Et Patriam pro Domino etiam contrà Filium defendere.

And the Feudal Laws were ſo well known here in *England* in King *Edward* the *Confeſſors* Raign, as it was accounted in his ſo greatly reverenced and beloved Laws, to be conſonant to Juſtice and right Reaſon, that *Qui fugit à Domino vel Socio ſuo pro timiditate belli vel mortis, in conditione Heretochij in expeditione navali ſive terreſtri perdat omne quod ſuum eſt, & ſuam ipſius vitam & manus mittat Dominus ad terram quam ei anteà dederat, & ſi terram hæreditariam habeat ipſa in manus Regis tranſeat.*

And the [h] Nobility and *Magnates*, Great and Rich Men, having received thoſe ample Favours, and Bounties from their Emperors, Kings, and Princes, and reſerved ſome of their Demeſne Lands to themſelves for their own Houſe-keeping, were ſo willing to Communicate it to others, as they diſtributed their other great quantities of Lands, and Tenements in like manner, *Colonis & hominibus inferioris notæ*, to their Friends, Servants, and followers under the various Tenures of in *Capite* by Knights Service, Soccage, Caſtle-Guard, and Copy-holds, Burgage, grand and petit Serjeanty, and were alſo to attend their Lords, and Donors in the Service of their Prince, which was wont to be carefully excepted, in all their Oaths of Homage and Fealty made unto their Meſne Lords, and *Antiquiſſimo tempore ſic erat* [i] *in Dominorum poteſtate connexum, ut quando vellent, poſſunt auferre rem in Feudum à ſe datam*; and ſuch an Harmony, and great Obligations of Bodies, Souls, and Conſciences, Lands, Eſtates, Dependance, and Protection could be no other but a very great Safety, and conſtant kind of Defence to this Kingdom, and all the Subjects and People thereof.

For *In feudalibus Conſuetudinibus* (ſay the Civil or *Cæſarean* Laws) *Jura regnorum, Ducatuum Marchinatuum, adeoque totius Imperij leges fundamentales, ac nervi quibus Monarchiæ Romanæ cum ipſo ſeneſcente mundo lanqueſcentes inter pedes Feudorum materiam privatim & publicè utilem, & in ea hodie totius Chriſtianæ reipublicæ, Jus publicum magna ex parte Conſiſtere, & vires nervos & robora tam togatæ quam armatæ militiæ ſita eſſe.* Johannes Calvin I. C. in Epiſt. dedicat.

[f] *L'Oyſeau* des Offices feodiaux ca. 2. 231. & 232.

[g] *Martinus Margerus a Schomberg de armata militia* 15. 316. 504.

idem. ibidem. 13. 268. 999.

idem. ibidem. 221. 224. 596

idem. ibidem. 13. 249. 5.

LL. *Edward Conf* de Heretochiis 147.

[h] *Spelmans* gloſſar 216. tit Feodum ſive feudum.

Gerardus Niger & Obertus de Otto de Feudis. *Albert* van *Beaumont* de origine feudi Hollandiæ Friſiæque Occidentalis. 2. 3. 4 *Paurmeſter* de juriſdictione imperii Rom' 40. 41, 42, 43, 44. 45. *Cravig* de feudis; *Cuiacius* lib. 8. *Coldendorp. Vulteius. Weſenbachius.*

[i] *Spelmans* gloſſar. 217. 17. E. 2.

Joannes Joachimus a Ruſdorff. *Reſental* in Synops' Feud in prefat' ad lect.

cat. Juriſp. feudal. feuda feudorum, *quæ Jura inquit fidelitatem ac fidem publicam pacem & Incolumitatem communis patriæ firmavit, Imperioſam Principum & Magnatum dignitatem amplificant, firmiſſimum militiæ contra Communes Reipublicæ hoſtes nervum ac præſidium ſubminiſtrant, adeoque fulcra Germanico Romani Imperij nancupari deſiderant*, and have received the Reſpect Reverence and Approbation univerſally, and almoſt every where allowed, and not denied unto them, in the Labors and Studies of very great and eminent Civil Lawyers, as *Zaſius, Weſenbechius, Vulteius, Harriſanus, Corvinus, Bronkhorſius, Roſenthalius, Gothofedus, Schwedecus, & multi alij, Ac etiam in Belgio Fridericus Sande, omneſque qui non tantum ſevera Lege proficere Cupit, & in foro rideri non vult.*

Feltman de feudis in Epiſt.

Feltman de Feudis *Sect* 2.

Feuda à Germanis *principio rerum gentium nationumque ad vires Imperij augendas atque conſervandas quidem ſtatim quid inventum fuit quod valdè cum Feudo convenit* Genes' 14. 4. 2. paralip. 36. 13. Jerem. 52. 3. Xenophon Cyropaid' l. 2. pr' *Nec tamen Feudum fuit ſed Clientela res apud Turcas hodiè notiſſima, qui non alio modo multos Reges & principes ſibi nexos cogunt, de Germanorum moribus Predidit* Tacitus lib. 1. 14. *Quod principem defendere tueri præcipuum Comitum fuerit ſaramentum, Et hi Exigunt principis ſui liberalitate illum bellatorem Equum illam Cruentam victricemque frameam.*

Ca' 22. and 9.

Feudum vetus & feudum novum, Vetus quod ab abſcondentium aliquo, Novum quod ipſe ab aliquo adquiſivit.

Cæſar *intelligitur apud* Germanos *in hoc feudo ſemper Exceptus* 2. F. 56. *apud* Gallos *Rex in Ligio pater non exceptus, quia id datur ab eo qui Superiorem non agnoſcit, cui ſi inſidiatur, vaſalli pater Domino ſubiectus crimen perduellionis Principibus comittit.*

Vaſallus Domino Reverentiam & Honorem debet ejuſque Commodo augere, atque damna infecta avertere obligatus eſt.

Feltman in teat de feudis 127. 25. 26.

In Feuda Concedendis Ordo hominum non attenditur, nam & Superiores ab inferioribus Feuda accipiunt, Et per vicariam perſonam Inſiurandum accipiunt, inter politicos Cæſar *& Reges Feuda dare poſſunt, Duces Marchiones Principes Comites & Barones Feuda dare poſſunt, etiamſi* Cæſari *aut Regi ſubjecti ſunt; Maiora ſunt autem Regalia quæ ad ſtatum reipubl' adminiſtrationem nec non ſummi Principis decus pertinent*, and *à Cicerone* are ſaid to be *Jura Majeſtatis, à* Livio *Jura Imperij, ſunt autem majora Regalia Leges condere eaſque ſi dubia ſint Interpretari* Lib. 8. Sect. 1. C. *Duces, Principes, Comites, & Barones, Equites & Nobiles Creare* l. 5. de Dignat' *facere Notarios, Doctores, Comites, Palatinos, Spurios facere Legitimos*, Novel 89. 9. *veniam ætatis indulgere, conſtituere ſummum tribunal Juſtitiæ, à quo appellari non poteſt, Jus vitæ & necis pardonare, Jus Civitatis dare, Monetam cudere, pleniſſimam Tuitionem tribuere quam* Sauvegard

gard *dicunt, instituere Cursores publicos, qui Celeriter dispositis Equis Epistolas ferunt nunc* Postas *vocant, Bellum indicere, Pacem cum hoste & fœdus cum Exteris pangere, Academias vel Universitatem literarum condere, Legatos mittere ad alios principes, Magistratus creare eosque confirmare, & Jurisdictionem atque Imperium tàm merum quàm mixtum dare, Comitia universorum Imperij aut reipub' ordinum Indicere* l. 1. pr' F. *Religionis Orthodoxæ tuitio, Concilia & Synodos cogere, Ecclesiæ Ministros Instituere & confirmare, malè viventes removere, indicere ferias.*

Habent etiam Regalia Minera, quæ sunt Commoda quæ ex rebus publicis & ratione Imperij capiuntur, Armandia, id est, Potestas fabricandi arma & armamentariorum cogendi, viæ publicæ cum ratione Tuitionis contra Latrones, tum ratione Refectionis, tum ratione Jurisdictionis, tum quoque ejus quod in illis nascitur, Flumina publica navigabilia & ex quibus fiunt navigabilia modo quo viæ publicæ ad regalia pertinent, Portûs vel Vectigal quod pro Ingressu in portum aut portus transitu pendunt, Ripatica sive vectigalia pro riparum earumque munitione, vectigalia quæ hodiè Tollen Conveyen & Licenten *dicuntur, quæ præstantur pro mercibus exportandis & importandis, bona vacantia, bona damnatorum ob Perduellionem aliudve crimen, ex quo hodiè publicatio eorum fit, Angariæ & Parangariæ, id est, Præstationes operarum & Currum, nec non navium quæ ad usum publicum rusticis & subiectis imperantur, extraordinaria Collatio sive Contributio Argentariæ (id est) auri Argentique fodinæ, quæ in provincia sunt, Piscatio in flumine publico, nec non Venatio, & utriusque concedendi Potestas, Decimæ ex Carbonum lapidumque fodinis, Salinarum reditus, omnis Thesaurus ubique repertus, Judæos recipere, Fodrum pro Exercitu principis Anergariæ sive hospitium Militum & Aulicorum, & condere Illustria, Gymnasia condicere.*

Dividitur Feudum in Ligium & non Ligium, illud est quando Vassallus domino fidem adpromittit contra omnes, nullo excepto mortali. *Feltman* Tract de feudis p. 14 Capit. 8. 9.

Non Ligium est, si Excipiuntur nonnulli contra quos dominum adiuvare non cogitur.

De Jure Domini directi Dominus directus Jus ratione feudi, tàm in re quàm ad rem, sed & amplius personam habet. Idem pag 125 ca. 16.

Vassallus operas præstare suis sumptibus debet, si à Domino monitus fuerit ad Jus dominij Laudemium pertinet est honorarium, quod principis dominio administris penditur. Ibm. p. 133. ca. 6. p 134. ca. 7.

All which *Regalia* and *Prerogatives* of our Kings and Soveraign Princes, have been founded upon the feudal Laws, attending the Monarchy of *England.*

And so greatly were our Kings and Princes in this our Monarchy of *England* sollicitously careful, to maintain and conserve their Subjects Tenures of their Lands, immediately or medi-

mediately holden of them, and the Dependencies and Obedience of their Subjects unto them, and therein their own as well as their Soveraigns Good and Preſervation, as King *Henry* the *Second* cauſed throughout the Kingdom a Certificate to be made, not by the Hear-ſay or ſlight Information of the Neighbourhood, or partialities of Juries, but by the Tenants themſelves in *Capite*, or by *Knight-Service*, whether Biſhops, Earls, Barons, and great or ſmaller Men, by how many whole or parts of Knights Fees they held their Lands, and by what other particular Services, and what *de veteri & novo Feoffamento*, and cauſed thoſe Certificates to be truly Recorded in the Court of Exchequer, in a particular Book, called the *Red-Book*, which either as to its Original, or ſeveral exact and authentick Copies thereof, as Sir *William Dugdale* hath aſſured me, were not burnt or loſt in the dreadful Fire of *London* in *Anno* 1666. and thoſe Tenures and Engagements of thoſe Tenants, were ſo heedfully taken Care of, as our Kings ever ſince the Raign of King *John*, had Eſcheators in every County, (the Lord Mayor of *London* being alwayes therein the Kings Eſcheator) who amongſt other particular Charges and Cares appertaining to their Offices, have been Yearly appointed to look after them; and the Biſhops, Earls, and Barons eſpecially, ſince the Conſtitution and Election of the Court of Wards and Liveries by King *Henry* the *Eighth*, were not without their *Feodaries* in the ſeveral Concernments of their private Eſtates, as our Kings had in every County, as to their more univerſal or greater; which together with the reſpites of *Homages*, which the Lord Treaſurers Officer of the *Remembrancer* in the Court of Exchequer was to Record, as appeareth by a Statute or Act of Parliament made in the *7th.* Year of the Raign of King *James*; and our Learned and Loyal *Littleton*, who was a Juſtice of the Court of Common-Pleas in the *14th.* Year of King *Edward* the *Fourth*, with the allowance of Sir *Edward Coke* his juſtly adoring Commentator, hath taught us, That Tenures in *Capite* do draw and bring along with them, as incidents thereunto, *Homage* which is the moſt humble and honourable Service and Reverence that a Tenant can do unto his Lord; when upon his Knees with his Sword ungirt, and his Head uncovered, holding his hands between the Hands of his Lord, he ſweareth and profeſſeth to be his Man of Life and Limb and earthly Worſhip, and to bear him Faith for the Lands and Tenements, which he holdeth of him, ſaving the Faith which he holdeth to his Soveraign Lord the King, together with Fealty, Service in War, or inſtead thereof Eſcuage,

Littletons Tenures and *Coke* in his *Comment* thereupon ca. 1. tit Homage Sect. 85.

Littletons Tenures tit'Eſcuage.

Socage

Socage, Franck Almoigne, Homage Auncestrel, Grand Serjeanty, Petit Serjeanty, Tenures in Burgage and Villeinage; and then the Lord so sitting Kisseth him: And where the Service is not done by the Tenant in *Capite*, or by Knight-Service in Person, the Escuage Money or Fine, that is to be paid in recompence thereof, is to be Assessed by Parliament; and if any Controversy do arise, whether the Service were done personally or not, it shall be tryed saith *Littleton* by the Certificate of the Marshal of the King in Writing.

Cokes 1 part Inſtitutes *tit.* Fee ſimple *ca.* 11. *Sect.* 1.

And Tenant, saith Sir *Edward Coke*, is derived from the word *Tenere*, and all the Lands in *England* in the hands of Subjects are holden of the King immediately or mediately; for in the Law of *England* we have not properly any *Alodium*, that is, any Subjects Lands that are not Holden, unless (saith he) you will take *Allodium* for a Tenant in Fee Simple, as it is often taken in the Book of *Dooms-Day*; and Tenants in Fee Simple are there called *Alodii* or *Alodiales*, and he is called a Tenant, because he holdeth his Lands of some Superior Lord by some Service; and therefore the King in this Sence cannot be said to be a Tenant, because he hath no Superior but God Almighty, and *Prædium domini Regis est directum Dominium, cujus nullus est Author nisi Deus.*

S. H. 7. 11, 19. E. 3. 35, 24. E. 3. 64, 66, 14. E. 3. 48. E. 3. 2.

And *Alodiarius & Alode seu Alodium*, saith Sir Henry Spelman, *est Prædium liberum nulli Servituti obnoxium* (but were never so free as to be no Subjects, or exempt from Obedience to our Kings, in whose Land and Dominion they lived) *Ideoque Feudo oppositum, quod hoc semper alicui subiacet servituti, Feuda enim antiquò dicuntur Servitii & Fidelitatis gratia, proprietate fendi penes dantem remanente, & usu fructu tantummodo in accipientem transeunte*, ut ex C. de feud. cogn' collegit *Barat* ca' 1. *Quamobrem nec vendi olim poterant invito Domino, nec ad hæredes Vassalli transiunt, nisi de ipsis nominatim dictum esset, sed & læsa fidelitate adimerentur, dicitur à Saxon'* Leod, *quasi populare dicitur* Alodium *ab à* Privitiva *&* Leed *Gallicè* Leud *pro Vassallo, quasi sine Vassallagio & sine Onere, quod Angli hodie* Load *appellant, Alodium feudo opponitur in antiqua versione* LL Canuti ca' 73. *Ubi Sax'* Bocland *dicitur, quod in* Aluredi LL ca' 36. *tota Hæreditas vocatur, & idem esse videtur quod hodiè* Fee Simple.

Speimans gloſſar.

Dicitur etiam Alodium *terra libera quam quis à nemine tenet nec recognoscit, licet sit in alieno Districtu & Jurisdictione, Ita quod solum est sub Domino districtus, quoad Protectionem & Jurisdictionem.*

Le grand Cuſtum de Normandie & in additione.

And believes the *Aloarii* mentioned in *Dooms-Day* Book do signify no more, than our *Sockmanni* or *Socage* Tenants, *Cum Ger-*

manis Liberos *& Gallis* Nobiles, *qui militiam ex arbitrio tractantes nullius domini Imperio evocati, nulloque feudali gravamine Coerciti, ſui Juris homines non Feudales, ſed qui dominium tamen agnoſcerent* (ut locus ille e Domeſday citatus plane evincit) *& qui fidelitatem apud nos Jurarent Cenſum quantulumcunque augebunt, ſunt etiam qui de nomine eos tenuiſſe aſſerunt, ac ſi* Hunnoniorum *more, adeo & ſole ſuum accepiſſent patrimonium.*

Du Freſne gloſſar. *Tom.* 1. p. 147. in verbo Alodiarii.

And *du Freſne* Etymologizing the word *Alodiarius* ſaith, It is *Prædium etiam domino obnoxium poſſidet tenens* Domeſday, *quando moritur Alodiarius Rex inde habet Alleniationem terræ* (a releiſe) *excepta terra ſanctæ Trinitatis*, Gulielmus Gemeticenſis Lib. 3. Ca' 8. *Abbatique locum cum tota villa quam ab* Alodiariis *auro redemit*, Thomas Walſinghamus, p. 419.

Et in definitione Alodialis, which he ſaith is *Idem quod Tenens*, mentioneth *Chartam* Gulielmi *ducis* Normanniæ p. 1042. *In Monaſticon Anglicanum* Tom. 2. p. 959. *Dedi etiam Eccleſiam* Radulphi *villæ & unum Allodialem in ipſa villa, & dedi quoque unum Allodialem in* Amundevilla *quietam ab omni Conſuetudine.* Bignenius *dicit, quod ſignificat Hæreditatem & paternam Terram, Et* Dominicus *de Prorogat' Allodiorum dictum oppinatur, quaſi* Alo Leuden, *id eſt, ſine Subjectione, a voce* Leuden *quæ Germanis pati ſubire ſignificat, ſicut & ſubjectionem & ſervitium*; Spelmannus *derivat a* Leod *populare Saxonice, Ita ut* Aleod *ſit idem quod Prædium populare oppoſitum Feudo, quod eſt Prædium dominicale*; And the Learned *du Freſne*, amongſt the various Opinions muſtred up by him, Concludeth with a *Denique plerique è doctioribus exiſtimant vocem eſſe primogeniam* Gallicam *vel* Francicam *quæ Prædium ac rem proprietario Jure poſſeſſum denotat.*

Jo. Koppen in *Rangenſdorff* in deciſionibus queſtion. Illuſtrium in *Germania.*

Feudum novum abſque domini Concenſu alienatum revocari poteſt a Domino, Deciſ. 14. *Feudum in dubio præſumitur eſſe hæreditarium, & non ex pacto & providentia*, Deciſ. 30. n. 22. *Feudum antiquum abſque concenſu domini alienatum ex communi* D. l. *ſententia a filio revocari poteſt.* n. 11.

And the Tenures in *Capite*, and by Knight-Service, were of ſo high an Eſteem and Value amongſt the *Engliſh*, whereby to do unto their Kings and Country that Honor and Service, which was due, and might be expected from them, in their ſeveral Degrees and Stations, as the great Lords and other Men of Note did many times purchaſe or obtain of each other, the Homages and *Servitia* of ſo many Men, or parts of Knights Fees by Deeds or Charters; and ſo much beyond any Money or other kinds of Eſtate, Lands, or Offices, as *Robert* Earl of *Leiceſter*'s Anceſtor, having at the Coronation of King *John* agreed to pay unto *Roger Bigot* Earl of *Norfolk*'s Anceſtor,

Ten

Ten Knight's Fees for the Purchaſe of that great Office of *High Steward* of *England*, of which Seven and an half were paid, and a Controverſy ariſing afterwards betwixt the ſaid Earls, for the Satisfaction of the Remainder, in the 31*ſt*. Year of the Raign of King *Henry* the *Third*, the King undertaking to make an Accord betwixt them, adjudged *Simon Montfort* (who afterwards ill requited him) to have and execute the ſaid Office of High Steward; and that *Roger Bigot* Earl of *Norfolk* (who afterwards joyned in the Rebellion with *Montfort* againſt him) ſhould bring his Action for the other Two Knight's Fees and an half.

Vincent and *York* Catalogue of Nobility tit. *Norfolk*.

From which moſt neceſſary and excellent Feudal Laws, have proceeded thoſe grand Honors fixed and appurtenant to our ancient Monarchy of *England*, in our Kings and Princes Grant to ſeveral great Families in *England*, in Fee or Fee-Tayl, as to be Conſtable of *England*, Earl Marſhal of *England*, Lord Steward of *England*, Lord Great Chamberlain of *England*, Chamberlain of the Queens of *England Die Coronationis ſuæ*, Butler to our Kings at their Coronations, *&c.* And likewiſe the Statute *de Donis* or Entailes, the neglect whereof, in leaving all the ruined Families of the Nobility, Gentry, and better ſort of the *Engliſh* Nation to feigned Recoveries, introduced about the Raign of King *Edward* the *Fourth*, by an unhappy and unjuſt Trick of Law, to make the Loſers believe that they ſhall recover the Value of their Lands ſo Loſt, amounting in the whole unto the greateſt part of all the Lands in *England*, of the Bagbearer of the Court of Common-Pleas, who in the Concluſion is only Vouchee to Warrants, and to make it good out of his own Land, and by the ſmall Fees and Profits of his Office, was never yet known to Inherit, or to have been a Purchaſer of ten Acres of Land, yet walks about and is never moleſted or called to Account for thoſe vaſt Sums of Money, or his Land (if he ever had or was *re vera* intended to have had any) was to be liable by his being a Common Vouchee in all the Common Recoveries which are ſuffered in that Court.

It being in thoſe more Obedient and Loyal Times eſteemed no ſmall Honour to ſerve our Kings, or hold Lands by ſuch a Kind of Tenure, as it may be believed to have occaſioned that Adage or Common ſaying in *England*, before the ever to be lamented taking away of Tenures in *Capite*, and by Knight-Service and Pourveyance, *No Fiſhing to the Sea, no Service to the King*; and thoſe Royal Services, affixed unto Lands and Territories, have been ſo immutable amongſt other our Neighbor Nations, as in the *Aurea Bulla*, faſtned upon the

Empire of *Germany*, about the 30*th*. Year of the Raign of our King *Edward* the *Third*, the Three Spiritual Electors, *viz.* the Arch-Biſhops of *Mentz*, *Cologne*, and *Trieks* or *Trevers*, do hold their Lands and Territories by their ſeveral Tenures, of being Arch-Chancellors, the *Firſt* of *Germany*, the *Second* of *Italy*, and the *Third* of *France*; the King of *Bohemia* to be *Archipincerna*, Duke of *Bavaria* or Count *Palatine* of the *Rhine Archidapifer*, Duke of *Saxony Archimariſcallus*, Duke or Marqueſs of *Brandenburgh Archicamerarius*, of that Empire, and might be with or amongſt them exampled from our Pattern, which was long before; as alſo from the *Scots*, who have to this day ſome of the like official Dignities annexed to their Lands and Eſtates, and as in the Raign of our King *Henry* the *Firſt*, Count *Tankervile* was, by Inheritance and Tenure of his Lands, Chamberlain of *Normandy*.

Schwederus part ſpecial' *ca.* 5. de Electoribus Germ' Imperii.

And although not ſo ancient as the Cuſtoms of the *Patroni* and *Clientes*, in the beginning of the flouriſhing of the vaſt *Roman* Empire, which was ſo greatly advantageous both unto the greater and leſſer part of the People, the *Patroni* in their Popularities and Ambitions to gain and pleaſe them in their way of Advancements to Annual Magiſtracies, not ſeldom exerciſing their Eloquence in pleading their Cauſes or Suits in Law, before the Lawyers had for another kind of Advantages by the Gratifications of Fees and Rewards, made it to be the greateſt part of their Profeſſion, which before were principally employed upon ſeldom Occaſions in matters of Difficulty, in Juriſconſults and Deciſions; ſome of the more eminent ſorts of them having, about the Raign of the Emperor *Auguſtus Cæſar*, obtained Licenſes of him *ad reſpondendum*; Yet after the Irruption of the *Goths*, *Vandals*, *Longobards*, and *Hunnes*, with other *Northern* Nations into that Empire, they found it to be more beneficial, to do as the *Germans*, and many other *Northern* Nations have done, to be *Feudaliſts*, and to have Lands given unto them and their Heirs, to hold by Service of War, and other neceſſaries under thoſe grand Obligations of Intereſts, Oaths, Gratitude, Homage, and Fealty, which proved to be better more certain and beneficial, both for the *Patroni* and *Clientes*, the poorer ſort of the People alwayes or very often wanting the Aid and Protection of the greater, from Wrongs and Oppreſſions like to be put upon them. And the *Patroni* and Greater, procuring to themſelves thereby a more conſtant Obſervance of Duty, Honour, and Additions to their former Grandeur, the greater and leſſer thereby mutually ſupporting and aſſiſting each other, which in the Conſequence was (as it did) likely

Forſterus de *Advocatis.*

Livy & *Plutarchs* lives.

likely to prove much better, than the charge and trouble the *Patroni* were uſed to be; as in the frequent courting and Humoring of the common People with their coſtly *Epulæ's* and *Ludi's*, not only to gain their own Preferments in their Annual purſuites of Offices of Magiſtracy, but to keep the popular Votings from Mutiny, and ruining them as much as themſelves.

And howſoever that they with us in *England*, by a great infelicity to our languiſhing Monarchical Government, after an horrid Rebellion and murder of our late King, *Anno* 12. *Car.* 2. by an Act of Parliament made upon his now Majeſties happy Reſtoration for the taking away the Court of Wards and Liveries, Tenures in Capite and by Knight ſervice, and Pourveyance, and for ſettling a Revenue upon His Majeſty in lieu of a great part of the lands of *England* and *Wales*, which the Rebels beſides their great Eſtates had forfeited unto him, which they were willing to retain to themſelves, and thank him as faſt as they could with a more deteſtable Rebellion, the Præamble mentioning moſt unfortunately, for want of a right Information and underſtanding thereof, That the ſaid Court of Wards and Liveries, Tenures by Knight ſervice in Capite, holden of the King or others, and Socage in *Capite*, have been by conſequence more præjudicial, then beneficial to the Kingdome, (as if the Nerves and Ligaments of the Crown of *England*, and the ancient Support and Defence of the Honour and glory thereof, for more then one thouſand years, could any way deſerve to be ſo Charactered) and that after the Intromiſſion of the ſaid Court, which hath been ſince the 24th. day of *February* 1645. (when the Divel and his Reformation had made a large progreſs in the chaſing Religion out of the Kingdom, and waſhing over in blood the Bleſſed Martyr King *Charles* the firſt, 3 Kingdomes of *England*, *Scotland*, and *Ireland*) many Perſons could not by their Will or otherwiſe diſpoſe of their Lands by Knight Service; whereby many Queſtions might poſſibly ariſe, unleſs ſome ſeaſonable remedy be taken to prevent the ſame: Our Soveraign Lord by the Aſſent of the Lords and Commons in Parliament aſſembled, and by the Authority of the ſame did enact the taking away of the ſaid Court of Wards and Liveries with other the Premiſes, And all Tenures of any Lands, holden of the King or any others, ſhall be turned into free and Common Socage, and be diſcharged of all Homage, Eſcuage, Voiages, Royal Wardſhips and Aide, *Pour file marier & pour faire fitz Chivaler livery & ouſter le maine*, all Statutes repealed concerning the ſame, all Tenures hereafter to be created by the King his Heirs or Succeſſors ſhall

12. Car. 2.

be

be in free and Common Socage, Provided that that Act extend not to take away Rents certain, Herriots or Suits of Court belonging to any other Tenures taken away or altered by that Act, or other Services incident to common Socage, or any Releifes due and payable in caſes of free and common Socage, or of any Fines for Alienations holden of the King, by any particular Cuſtomes of Lands and Places, other then of Lands holden immediately of the King in *Capite*. Nor extend unto any Tenures in *Franck Almoigne*, or by Copy of Court Roll, honorary Services by grand Serjeanty, other then what are before diſſolved or taken away; Provided that this Act, nor any thing therein contained, ſhall infringe or hurt any Title of Honour, feodal or other, by which any perſon hath or may have right to ſit in the Lords Houſe in Parliament, as to his or their Title of Honour or Sitting in Parliament, and the Priviledges belonging to them as Peers.

And that that Act extend not to any the Rights and Priviledges of His Majeſty in his Tynn Mines in *Cornewal*.

In recompence whereof the King ſhall have the Exciſe of *Ale*, *Beer*, *Perry* and *Syder*, Strong and Diſtilled Waters ſetled by that or ſome other Act of Parliament, touching the Exciſe, upon the King during his Life, and a Moyety only after his death to His Heirs and Succeſſors.

And are by Sir *Henry Spelman* ſaid to be *non ſolùm jure poſitivo*, *Sed & Gentium, & quodammodo Naturæ*, not only by poſitive, but the Laws of Nations and Nature. Eſpecially when it was not to ariſe from any compulſory, [1] incertain way, or involuntary Contribution, or out of any perſonal or movable Eſtate, (caſes of Relief only excepted,) but to fix and go along with the Lands, as an eaſy and beneficial Obligation and Perpetuity upon it; and was ſo incorporate and inherent, as it was upon the matter a Co-exiſtence or Being with it; *Glanvil*, and *Bracton* being of Opinion with the Emperour *Juſtiniam*, that the King muſt have Armes as well as Laws to govern by, and not depend *ex aliorum Arbitrio*; and therefore the Prelates, Earles, and Commonalty of the Realm did in a Parliament in the *7th.* Year of the Raign of King *Edward* the *1ſt.* declare it to be neceſſarily belonging unto him, and to none other; *Judge Hutton* in his Argument in the caſe of the Shipmony in the Raign of King *Charles* the *Martyr*, and diverſe other Learned Judges and Lawyers have declared Tenures in *Capite*, and by Knight Service, to be ſo inſeparable from the Crown, as not to be aliened or diſſolved by any Act or Authority of Parliament. Some of whom could not forget, that a Deſign having

k Spelman's Gloſſar'.

l *Fabian Philips* tenenda non tollenda.

Juſtinian's Inſtitutes.

7. E. 1.

ing been preſented and offered unto King *James* (when the *Scots* had by their importunityes much enfeebled the Royal Revenue) by ſome, who neither underſtood our Fundamental Laws or the Conſtitution of our Government, and having conſiderable Eſtates in the County of *York*, and Biſhoprick of *Durham*, and being Members of the Houſe of Commons in Parliament, and miſchievous enough in the long Rebellious Parliament, a Revenue of Two hundred thouſand pound *per Annum* to diſſolve his Courts of Wards and Liveries, and releaſe his Tenures in *Capite*, and by Knights Service; and the King liked ſo well of thoſe Hopes of augmenting his overwaſted Revenue, as he, with Promiſes of great Rewards to the Deſigners, ordered a Table to be purpoſely kept at *White-Hall* for them, untill they had brought their undertakings to perfection; unto which the Reverend *Judges* being ſummoned by the King to deliberate and give their Opinions, could find neither Law or right Reaſon for the taking away of thoſe Tenures with their incidents, even by an Act of Parliament; Inſomuch as the Deſign and Table were laid down, and no more thought of, until the unhappy Fate and Miſery of forſaking and deſtroying Fundamentals did ſo drive it on afterwards as it hath done, by our abandoning the old ways and the Truths thereof into thoſe very many Misfortunes, which it hath brought us into already, and will more and more into the Prophet *Jeremiah's* Lamentations. And ſo greatly reſembled that very antient way of the great Councels or Parliaments in *France*, drawn and derived from their Anceſtors the *Francks*, and other their Northern Progenitors in and of that Kingdom, long before there inhabiting, until the miſeries brought by the *Engliſh* Conqueſts, and their own Diviſions, upon that people by thoſe Warrs, and their ſeeking in the interim to govern their Kings, and Domineer over them in the midſt of their Troubles, Neceſſities, and Diſabilities to protect them, had conſtrained ſome of their after Kings, as *Lewis* the 11*th*. one of their Kings to find the way to govern ſo Arbitrarily, as they have ſince done with a continual ſo limited Parliament, as it ſignifieth little more than an extraordinary Court of Juſtice, and verify the Edicts of his prerogative Power with a *car tel eſt noſtre plaiſir*; Inſomuch as thoſe kind of Tenures and beneficial Mutualites, might not improbably have been here introduced by the *Saxons*, from one and the ſame or a like *Radix*, or Original, before the *Normans* Atcheivements and Acqueſts, either here or in *France*, or by what they had learned or practiſed of the Feudal Laws in the Empire, or after the *Normans* had brought *England* (their long before Compatriots) into ſubjection; and in the Reigns of ſome of their after Kings continued Maſters of

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Normandy, *Aniou*, *Aquitaine*, *Mayne*, and *Poicteau*, and of ſo many other great parts and Provinces of the *French* Dominions, as in proceſs of time they gained a full Poſſeſſion of the reſidue, and in a ſhort time after loſt them all by our own Domeſtick Ambitions, and Diſcords.

So as one Egg of the ſame kind, cannot commonly be more like in it's external Form and Likeneſs, to an other, then the antient and ever-to-be-approved Method of our and their former great Councels or Parliaments were.

Wherein may warrantably, without any ſuſpicion of an Arbitrary Government, be vouched and called the learned *Sieur du Freſne*, a man of vaſt Reading and Litterature, and not only Learned in all the *Roman* and *Northern* Antiquities, but in our Old *Engliſh Saxon* Laws, and the allowed claſſical and veritable Authors, and Writers of our Nation, and to whom the Learned Works of our *Glanvil*, *Bracton*, *Littleton*, *Forteſcue*, *Coke*, *Stamford*, *Spelman*, and *Selden* were no Strangers, when in his Gloſſary, or Comment upon the word *Pares*, he repreſents unto us the Figure or lively Picture of our own ancient Cuſtomes and Uſages in our great Councels or Parliaments, in theſe his Words or Annotations. Pares *dicuntur*, *qui ejuſdem ſunt Conditionis vel Dignitatis.*

m *Freſne in verbo* Pares.

LL. *Aleman.* tit. 93. capitl. car'. m. lib. 3. ca. 71. 72.

In charta Grodegangi *Epiſcopi* Metenſis *apud* Meuriſium. p. 167. It is ſaid, *Ego* Grodigangus *imà cum voluntate illuſtriſſimi* Pipini *Inclyti* Francorum *Regis Avunculi mei, & cum Conſenſu omnium Parium noſtrorum, Epiſcoporum, Abbatum, Presbyterorum, Diaconorum, Subdiaconorum, vel omnis Cleri, ſeu & hominibus Sancti* Stephani Metenſis *Eccleſiæ cogitavi caſum humanæ Fragilitatis &c.*

Apud Marcnl-fum lib. 1. formul 32.

Apud Baldricum Noviocomenſem *Compares ſunt* Pares *Feudales, & in legibus* Henrici *primi Regis* Angliæ. *ca.* 34.

Et exinde appellati unius domini Convaſſalli quod ratione Hominij & Tenuræ ſibi invicem Pares *ſunt, qui Domino ſubſunt, à quibus ſoli judicari poterant, nam Convaſſalli diverſarum Baroniarum ſeu Territoriorum eidem Domino ſubjecti, non dicuntur propriè* Pares, *à Paritate igitur conditionis & dignitatis appellatio illa profluxit.*

Exploditur virorum doctiſſimorum Sententia, quòd Pares *derivantur à* Patritijs Francicijs *tenebantur* Pares *judicijs dominicis intereſſe, Judicumque munere fungebantur, & ad id aſtringebantur Feudorum ſuorum obligatione.*

Quod ſi legittimam Excuſationem haberent, quò minùs poſſent Judicijs dominicis intereſſe tenebantur eo caſu, Paris *ſibi conditionis Vicarios ſubmittere, qui eorum locum tenerent in ijsdem Judicijs.*

Dignitas autem Regia, Ducatus, Marchio, Comitatus, non dicitur

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propriè eò quòd Duces, Marchiones, & comites Regibus ſint Pares, ſed partim quòd à Rege proximè deſcendit.

n *Paur Meiſter de juriſdict Imperij Rom. 45. tit. de legibus Conrad. & Forcat in com'. de feudis.*

Parium autem Judicia in ipſos Pares & convaſſallos exercebantur, adeò ut ſi aliquis oriretur ſententia inter ipſos Pares dirimi non poſſit, niſi in Conventu & judicio Parium ſuorum, Domino ipſo Feudali præſidente. In Parium conſeſſu judicia ab ijs in dominum non exercebantur, quippe ils ne ſont mis appeller Pers pour ce qu'il ſoient Per a lui, mais Pers ſont entre eux enſemble.

Parium Judicia inter Pares ſeu Convaſſallos tantùm exercebantur.

Neque Pares duntaxat per Pares ſeu Convaſſallos ad judicium ſubeundum ſummonebantur, ſed & actiones cæteræ omnes Judiciæ per Pares peragebantur. Cùm igitur Pares ſint Vaſſalli, qui à Domino Feudali nudè pendent ratione Tenuræ, atque ita etiam vulgò appellati ſunt Barones, ideò vox utraque eadem notione paſſim uſurpata legitur, pro majoris dignitatis Vaſſallo qui vel in Conſilium adhibentur à Domino aut Rege. That which was mentioned by *Ingulfus*, to have been in uſe amongſt the Monks, in the Abby of *Croyland*, being in the Raign of *William Rufus*.

And as to the Court Barons of the meſne Lords, derived from their Superiour, ſaith *du Freſne*, *Parium judicijs non modo intererat Dominus, vel ejus Ballivus, ſed etiam in rebus arduis concilium expetebat, ità ut Conciliariorum Domini feudalis vicem fungerentur.*

o Du Freſne Tom. 3. 139.

In quibuſdam tamen locis, ut in Comitatu Bellovenſi, le Seigneurs ne jugent pas en les Cors, mes les Homes jugent, *& in locis ubi cum Paribus ſuis conſidet ejuſmodi judiciis intereſſe non poſſe, ſi Litem vel Controverſiam habet cum Paribus.*

Pariæ ex Hiſpanico Parias feudales redditus honores homagia.

And we might as well borrow from them the word Parliament, which *Du Freſne* hath told us, was made uſe of by *Lewis* the 8th. King of *France* in the year 1224. which was in the 8th. year or 9th. of our King *Henry* the 3d., nineteen or twenty years before it was found, that the word Parliament was uſed in any of our Publick Records, in the Antient and former Ages, in all the latter in our King's Writs of Summons to their Parliaments (except ſome few by Inadvertency) giving it no other Title than *Conſilium* or *Colloquium*.

And *Du Freſne*, after his learned Comments upon the word *Baronia*, and the Antient Uſages thereof in *England*, ſaith, That our Biſhops had their *Regalia, ſeu majora dominia Epiſcoporum ac Prælatorum, quæ à Regibus in feudum tenentur*; and the Laws of our King *Henry* the 1ſt. as our *Gervaſius Dorobernenſis* reporteth, do allow that *Archiepiſcopi & Epiſcopi habeant poſſeſſiones ſuas de Domino Rege, ſicut Baroniam, & inde reſpondent Miniſtris & juſtitiæ Regis, & id etiam obtinuit* (ſaith *du Freſne*) *in* Francia, *ut Regalia*

Epiſcoporum & Eccleſiarum Baroniæ dicerentur: And he citeth very antient Authorities out of the *French* Authors, Records, and Regiſters of their Parliaments, mentioning an Arreſt or Judgment thereupon given in the year 1282. which was in the 9th. Year of the Raign of our King *Edward* the *Firſt*; and that long before, *viz.* in the Year of Grace 1233. which was in the 17th. Year of the Raign of our King *Henry* the *Third*, there was *Baronia Eccleſiæ* Lugdinenſis, *nam non modo propriè Regalia, ut alij Barones Servitiis omnibus feudalibus obnoxii erant, ſed etiam in Comitiis publicis ſeu* Parliamentis *ſedere jus iis erat; cujus* p *apud noſtros uſus infinita præſtant exempla apud* Tullium *& Alios, in* Angliam *vero Epiſcopos in* Parliamentis *publicis eo nomine locum & ſedem habere conſtat.*

p Du *Freſne* Gloſſar. *tom.* 1. 492. & 493.

And that *Barones Eleemoſynarii apud* Stanfordum, *& in jure Anglicano dicuntur Archi-epiſcopi, Epiſcopi, Abbates, & Priores, qui prædia ſua Eccleſiæ à Rege tenent per Baroniam, Baronias enim ſuas ex Eleemoſynis Regum perhibentur accepiſſe, licet ipſa prædia aliorum ſæpè munificentia conſecuti fuerint, quomodo etiam apud nos Regalia Eccleſiarum cenſentur eſſe ex ſola Regia liberalitate iis olim conceſſa.*

And amongſt our *Engliſh* Biſhopricks, beſides thoſe of *Oxford*, *Briſtol*, and *Glouceſter*, which our King *Henry* the *Eighth* erected and endowed, the Biſhoprick of *Lincoln* had many Mannors and Lands granted by or in the time of King *Henry* the *Firſt* not in *Eleemoſinam*, and that of *Durham* by King *Richard* the *Firſt*, and great Poſſeſſions afterwards gained and laid unto it by *Anthony Beke* a Biſhop of that See, in the Raign of our King *Henry* the *Third*, or King *Edward* the *Firſt*.

And *Quæſtio agitata fuit* (ſaith that Learned *Sieur du Freſne*) *an ſupremi Palatii* Francici *Officiales poſſunt* q *Parium* Franciæ *judiciis intereſſe, & cum iis conſedere in judiciis in lite mota inter* Joannam *Comitiſſam* Flandriæ, & Johannem *de* Nigello, whereq Du *Freſne* Idem. 138. in *Tom.* 3. in by an Arreſt of the Parliament of *Paris* in the Year *One Thouſand Two Hundred* and *Twenty Four*, which was in the *Eighth* Year of the Raign of our King *Henry* the *Third*, it was adjudged, That the *Cancellarius, Buticularius, Camerarius, Conſtabularius,* Franciæ, *& Mareſcalli Hoſpitii Domini Regis debent ad uſus & conſuetudines obſervatas intereſſe cum Paribus ad judicandum Pares, ut quòd miniſteriales prædicti de hoſpitio Domini Regis debent intereſſe in Curiâ Domini Regis cum Paribus* Franciæ *ad judicandum Pares, & tunc prædicti Miniſteriales judicaverant prædictam Comitiſſam* Flandriæ *cum Paribus* Franciæ.

Wherein our Anceſtors, without any Arreſt or Decree of Parliament, did rather give than take the Pattern, when their Biſhops, as Chancellors of our Kings, very often and in a continued

tinued Series from the Raign of King *Edward* the *Confeſſor*, who was not without his [r] *Reinbaldus Regiæ dignitatis, Vice-Cancellarius*, when *Maurice* Biſhop of *London* was *Chancellor* to *William* the *Conqueror* in the *firſt* Year of his Raign, and other Biſhops have in that high and great Office ſeverally from thence ſucceeded unto the 29*th.* of *Edward* the *Firſt*, and not a few of the other Biſhops have been Treaſurers and Secretaries of State, and by that Right alone, beſides their Spiritual Rights, and Temporal Baronies, did ſit as Peers in that great Aſſembly, together with the Lord *Privy-Seal*, *Conſtable*, *Marſhal*, and Great *Chamberlain* of *England*, *Lord Steward*, *Chamberlain of the Houſhold*, with the Dukes, Marqueſſes, Earls, Viſcounts, and Barons of *England*, which do Illuſtrate that greateſt of our Kings Councels, attended with ſuch of the Judges, and other Aſſiſtants, as their Soveraigns ſhall be pleaſed to call or permit to Sit therein.

r Charta Regis *Edwardi* Confeſſoris *Eccleſiæ S. Petri Weſtmon.* 25 Regni ſui & Anno Domini 1066.

Neither could thoſe grand Officers claim a Right to be accounted by them or any others Equal, or Co-ordinate with them or their Superiours, or to have any Vote in the Houſe of Peers in Parliament, by their ſitting there, it being in the Act of Parliament made in the 31*ſt.* Year of the Raign of King *Henry* the *Eighth*, Entituled, *How the Lords in Parliament ſhall be placed*, wherein it being expreſſed, *That it appertained to his Prerogative Royal, to give ſuch Honor, Reputation, and Place to his Councellors and other his Subjects, as ſhall be ſeeming to his excellent Wiſdome.* It was ſpecially mentioned, *That the Lord Chancellor, Lord Treaſurer, Lord Preſident of the King's Councel, Lord Privy-Seal, or Chief Secretary, that ſhall be under the degree of a Baron of the Parliament, are to give no Aſſent or Diſſent in the Parliament.* And it is likewiſe remarkable, That in the Title of that Act of Parliament, and all along and thorough the Body thereof, the Houſe of Peers is only ſtiled the *Parliament*, and no mention is therein at all made of the Houſe of Commons in Parliament, nor any Care or Order taken for their Degrees or ſitting in Parliament.

E. 1. H. 9. *cz.* 10.

Neither do any of our Parliament Rolls, Records, or Authentick ancient Hiſtorians mention, that our Kings were in thoſe their great Councels limited, or accuſtomed to call all their Barons thereunto. Nor until the latter end of the Raign of King *Richard* the *Second*, had voluntarily obliged themſelves to Summon thither the *Dukes*, *Marqueſſes*, *Earls*, and *Viſcounts*, unto thoſe their great Councels.

And when it hath been truly ſaid, that *Omne Majus continet in ſe Minus*, it will not be eaſy to believe, That the

Minus doth or ſhould *Continere in ſe Majus.*

For in *Anno* 23 *Edward* the *Firſt*, there were but *Sixty-three* Earls and Barons Summoned, and in the ſame Year upon another Summons, but 45. King *Edward* the *Second* did not Summon all the Earls and Barons.

[f] Ro. Parl. 23

In the 6 *E.* 3. the [f] like. M. 22 *E.* 3. 6 *R.* 2. & 11 *R.* 2. the like.

King *Edward* the 3*d.* in the 9*th.* Year of his Raign, Summoned but five Earls, and Eleven Barons.

[t] *Elſing*'s Ancient and Modern manner of holding Parliaments *ca.* 1. *p.* 46. and 47.

In the 10*th E.* 3. the [t] Parliament Writs of Summons were directed but unto Fourteen of the Temporal Barons, with a *Memorandum* entred, that *Brevia iſtis Magnatibus immediatè præſcriptis directa eſſendi ad Parliamentum prædictum remiſſa fuerint concilio Regis pro eò quòd quidam ex eis in partibus* Scotiæ *& quidam ex eis in partibus tranſmarinis exiſtant adnullanda.* 15 *E.* 3. there were Summoned but 26 of all ſorts.

16 *E.* 3. But a very few.

[u] *Elſing* ca. 2. 51.

21 *E.* 3. [u] but 22.

45 *E.* 3. but thirteen Earls and Barons, and not many to diverſe Parliaments after, (the great *Commune & Generale Concilium*, rightly underſtood, being but *Synonyma's* of the word Parliament) and of latter times they which were in the King's Diſpleaſure have had their Summons, but with a Letter from the Lord Chancellour or Lord Keeper commanded not to come, but to ſend a Proxy.

In *Anno* 46 *E.* 3. and diverſe years in the Raign of King *Henry* the 5*th.* few Earls and Barons were Summoned, for that many of them were then buſied in the Warrs of *France.*

But in the Parliament in the Raign of King *Charles* the Martyr, *John* Earl of *Briſtol* being denyed his Writ, petitioned to the Houſe of Peers for it; whereupon he had it without any interceſſion of the Houſe of Peers, but withal a Letter from the Lord Keeper, ſignifying his Majeſties Pleaſure, that he ſhould ſend his Proxy, and forbear to come; whereupon he petitioned the Parliament again, ſhewing, That that Letter could not diſcharge him from coming, for that the Writ commanded him to come upon his Allegiance; but that point was not then debated, for the ſaid Earl was preſently ſent for as a Delinquent, and charged with High Treaſon, the *Majores Barones* being men of the beſt Eſtate, Extraction, and Abilities, and better ſort of the Tenants in *Capite*, by antient Law and Cuſtome of the Kingdom, being to be only Summoned according to the very old cuſtome of the *Romans*, probably

bably learnt from thence, [w] who, as *Sigonius* writes, did *in legendo Senatores* make choiſe of them according to their Birth, Age, Eſtate, and Magiſtracy well exerciſed and performed.

[w] *Sigonius* de antiquo jure Civium *Rom. lib.* 2. *ca.* 2.

And could be no leſs then well warranted by a conſtant, well experimented, long approved and applauded Uſage thereof for more than fourteen hundred Years, atteſted by the induſtrious Labours of Mr. *William Pryn* and others; and for the times before the Conqueſt, and the Learned Collections of Sir *Robert Filmer*, and others ſince the *Norman* Invaſion, fortified by ſuch Records (which in themſelves are never found to lie) as the teeth of devouring Time hath left us, ſeconded by unqueſtionable, antient, authentick, claſſical Authors, which might ſilence thoſe diſputes Factious and Fooliſh opinions and cavils, which in the latter part of this laſt unquiet Century or age have been ſtirred up againſt that very Antient and Honourable Aſſembly or Houſe of Peers, which all the former ages neither durſt or did lift an hand or heel againſt, or ſo much as maligne or bark at: So greatly are our moſt degenerate, wickedly hypocritical, worſer Times altered from what they were or ſhould be; and the only Recital of whoſe long and Antient Succeſſions, through their ſo many ſeveral gradations, may abundantly ſatisfie any that are not before ſo prepoſſeſſed, as to reſolve never to be ſatisfied with any thing that looks but like Truth or Reaſon, if they ſhall but read as they ought to do the enſuing Series or Catalogue: Wherein they may find, that in the Bud or Bloſſom of Chriſtianity in this our *Britiſh* Iſle, whither with divers good Authors we believe that King *Lucius*, who is ſaid to lie buried at *Wincheſter*, did in the year 156. after the Birth of our Redeemer, or in the year 185, 186, or 187. write his Letter to Pope *Eleutherius* to tranſmit unto him the *Roman* Laws, it is allowed by Sir *Henry Spelman* to have been written *Rege & Proceribus Regni Britanniæ*, and that *Faganus* and *Dervianus* two Doctors being ſent by *Eleutherius* to King *Lucius* Baptized him, *& cum regulis populum Baptizant, Clerum ordinant*, 3. *Metropolitanos & 28. Epiſcopos inſtituunt.*

[x] Concilia *Spelman* 32. 34.

Rex Ambroſius Aurelius *ut memoriæ Procerum* Britanniæ, *quos* Hengiſtus Saxoneſque *ſui complices nefanda proditione in monte* Ambroſij *(qui nunc vulgò* Stohenge *dicitur) trucidaverant* 480. *Conſul' & Barones æternum fieret prægrandes Lapides, qui ibidem in horum memoriam uſque in præſens poſiti ſunt ab Hybernia cum magna manu Germano* [y] *ſuo* Uther *illuc tranſmiſſo deportari fecit, qui cum allati fuiſſent congregati ſunt in monte* Ambroſij *edicto Regis magnates cum Clero & cum magno honore dictorum nobilium ſepulturam præparant.*

[y] *Spelmanni* concilia 60.

In

In the Charter of King *Æthelbert* confirming his Grant of the Land given to the Church of St. *Pancraſe* in the Year 605. It is [z] mentioned to have been done, *conſenſu venerabilis* Auguſtini *Archiepiſcopi ac Principum ſuorum.*

[z] *Spelmanni* concilia 119.

Et Decreta judiciorum ordinavit juxta exempla Romanorum concilio ſapientum; and when *Edwin* King of *Northumberland* was perſwaded to be a Chriſtian, it is ſaid, that he conſulted *cum principibus & conciliariis ſuis.*

Selden tit. honour 632. & *Bede* Hiſt. Eccleſ. lib. 2. ca'. 5.

Anno Dominicæ *incarnationis* Æthelbertus *Rex in fide roboratus Catholica unà cum beata regina filioque ipſorumque Eadbaldo ac Reverendiſſimo præſule* Auguſtino *cæteriſque Optimatibus terræ ſolemnitatem natalis Domini celebravit Cantuariæ convocato igitur ibidem communi concilio tàm Cleri quàm populi.*

In *Anno Domini* 673. a Parliamentary Councel was holden at *Hertford preſentibus Epiſcopis ac Regibus & Magnatibus univerſis*, but not any Knights, Citizens, Burgeſſes or Commons, as we read of, ſaith Mr. *Pryn.*

a *Pryns* 1ſt part of an hiſtorical collection of the antient Parliaments of *England.* 6. & *Spelmanni concilia.* 441.

A great Councel or Parliament was held at *Becanfeld*, where *Wythred* King of *Kent* was preſent.

Anno 694. In like manner, where none but the Peers were preſent.

The like *Anno* 710. at *Worceſter*, but without any Commons.

The like in the Councel at *Cliff. Anno* 747. holden by *Ethelbaldus* King of *Mercia, omnibus Regni ſui principibus & ducibus* being preſent, but not one Knight or Burgeſs mentioned.

The like in *Anno* 787. at *Colchuth coram* Offa *Rege & ſuis magnatibus, & convenerunt omnes principes tàm Eccleſiaſtici quàm ſeculares.*

Anno Domini 793. King *Offa* held a Councel at *Verulam*, wherein the King *ſuorum Magnatum acquieſcens concilio* took a journey to *Rome.*

Anno 794. after his return Celebrated two Councels, the one at *Colchyth*, where were preſent nine Kings, twenty-five Biſhops, twenty Dukes, (but no Houſe of Commons) the other at *Verolam, Congregato apud Verolamium Epiſcoporum & Optimatum concilio.*

About the year 796. *Cynewolf* King of *Weſt Sex* held a Councel where he wrote to *Lullus* Biſhop of *Mentz* touching matters of Religion *unà cum Epiſcopis ſuis nec non cum caterva Satraparum.*

Anno 800. *Kenulf* King of *Mercia* called to the Councel at *Cloveſha, omnes Regni ſui Epiſcopos, Duces & Abbates, & cujuſcunque*

que dignitatis viros, where there was no mention of any Commons.

Anno 816. at the Councel of *Colechyth Cænulf* King of *Mercia* was preſent *cum ſuis principibus, ducibus & optimatibus*; but not a Syllable of Knights or Burgeſſes preſent.

About the year 822. in the Councel of *Cloveſho*, where *Beornulf* King of *Mercia*, *Wilfred* Archbiſhop, *Omniumque dignitatum optimates Eccleſiaſticarum & Secularium* were preſent, but no Knights of Counties or Burgeſſes.

Anno 824. another Councel was held by the ſame King at the ſame place *aſſidentibus Epiſcopis, Abbatibus & Principibus Merciorum univerſis*, but no Commons for ought appears; the King, Archbiſhops, Biſhops and Dukes Subſcribing their Names to the decrees there made. [b] *Speiman Concil.*

About the ſame time a Councel called *Pan-Anglicum*, or for all *England* was holden at *London*, *Præſentibus* Egberto *Rege Weſt Saxonum* & Withlafio *Rege Merciorum, utroque Archiepiſcopo, cæteriſque Angliæ Magnatibus*, who Subſcribed it.

Anno Domini [c] 838. *a Concilium Pan-Anglicum* was holden at *Kingſton*, where King *Egbert* and his Son *Ethelwolph* were preſent *cum Epiſcopis & Optimatibus*, but not a word mentioned of the Commons Aſſent or Diſſent. [t] *Pryns* Part of hiſtorical collections of the antient Parliaments of *England*.

Anno 850. A Councel was holden at *Beningdon Prælatis & proceribus Regni Merciæ* under King *Bertulf*, when Lands were Setled and Confirmed by them to the Abbey of *Crowland*, without the Aſſent or Mention of any Commons.

Anno Domini 851. In a Councel held at *Kingsbury*, under King *Bertulf*, *Præſentibus* Ceolnotho *Archiepiſcopo* Doroberniæ *cæteriſque Regni* Merciæ *Epiſcopis & Magnatibus* without Knights or Burgeſſes.

Anno 855. There was a Councel or Parliament of all *England* held at *Wincheſter*, where *Ethelulf* King of *Weſt-Sex*, *Beorred* King of *Mercia*, and *Edmond* King of *Eaſt-Sex*, were preſent, together with the Arch-Biſhops of *Canterbury* and *York*, *Cæteriſque Angliæ Epiſcopis & Magnatibus*, wherein King *Ethelwolf Omnium prælatorum & principum ſuorum gratuito concilio* (without any Knights or Burgeſſes) gave the Tithes of all the Lands and Goods within his Dominions (a matter of no ſmall Concernment to all his Subjects in their Eſtates and Proprieties) to God and the Church, which hath continued ever ſince in Force through all *England*.

Betwixt the Year 871. which was the beginning of King *Alureds* Raign, and the end of which was in *Anno Chriſti Domini* 900. that excellent and prudent Prince Collected and Corrected di-

vers

vers Laws made by the *Saxon* Kings, his Predeceſſors omitting others *conſulto ſapientum & Prudentiſſimorum e ſuis conſiliis uſus edicit eorum obſervationem*, which was probably ſo done in a great Councel or Councels, which were afterwards called Parliaments, which in that ſo generally an unlearned age cannot be underſtood to be leſs than the *Magnates* of the Kingdom, Biſhops and Barons.

LL Saxonis

And the like is to be ſaid of the *Prudentum concilium* given to *Edoard* who began his Reign in *Anno* 900. and ended it in *Anno* 924, and as much is to be believed of the Councel or Parliament of King *Æthelſtan*, who began his Raign in *Anno* 924, and ended it in the year 940. who beſides what is mentioned in the making of his Laws, that he did it *prudenti Ulfhelinæ Archiepiſcopi aliorumque Epiſcoporum ſuorum concilio*, did about the year of our Lord, 930. by his Charter give divers Lands to the Abby of *Malmesbury*; in one of which Charters or Grants there was a Poſtſcript or Subſcription in theſe words, *Sciant ſapientes Regionis Noſtræ non has prefatas terras me injuſtè raptüſſe rapinas Deo dediſſe, ſed ſic eas accepi quemadmodum judicaverunt omnes Optimates Regni Anglorum*, to wit, in a full Parliament, which then conſiſted only of the King and his Nobility.

d *Pryns* hiſtorical collections of the Antient Parliaments of *England*.

Anno Domini 944. King *Edmond* granted many large liberties and the Mannor of *Glaſtonbury* to the Abby thereof *cum concilio & conſenſu Optimatum ſuorum* (made it ſeems ſaith Mr. *Pryns* in Parliament, and a clear evidence that the Nobles of that age were the Kings great Councel and Parliament) without any Knights, Citizens or Burgeſſes, of which he found no mention in Hiſtory or Charters.

Anno 948. there was a Parliament or Councel holden at *London*, under King *Edred Cùm univerſi Magnates* Angliæ *per Regium edictum Summoniti tàm Archiepiſcopi Epiſcopi & Abbates quàm cæteri totius Angliæ Proceres & Optimates* Londini *convenisſent ad tractandum de negotiis publicis totius Regni*, in which Parliament no Knights, Citizens or Burgeſſes are ſaid to have been preſent.

Anno 965, or 970. King *Edgar* with his Mother *Clito* his Succeſſor, the King of *Scots*, both the Archbiſhops *cæteriſque Epiſcopis & omnibus Regni proceribus* Subſcribed his Charter granted to the Abby of *Glaſtonbury communi Epiſcoporum, Abbatum, Primorumque concilio generali aſſenſu Pontificum Abbatum Optimatum ſuorum & concilio omnium Primatum ſuorum*, without any Commons preſent (aſſiſtants and attendants only excepted.)

Anno

Anno 975. King *Edgar* and his Queen, *Elferus* Prince of *Mercia*, *Ethelinus* Duke of the *East-Angles*, *Elfwold* his Kinſman, Arch-Biſhop *Dunſtan cum cæteris Epiſcopis & Abbatibus*, Brichnotho *Comite cum Nobilitate totius Regni* held a Councel at *Winchester* without any Commons.

Anno 977. in the Councel of *Calne* under King *Edward omnes Anglorum Optimates* were preſent, together with the Biſhops and Clergy, but no Knights or Burgeſſes for ought is Recorded.

Anno Chriſti 1009. by King *Ethelreds* Edict, *Univerſi Anglorum Optimates* at Eanham *acciti ſunt convenire*, not the Commons.

A Parliament was Summoned by King *Edward* the *Confeſſor*, concerning Earl *Godwyn* at *Glouceſter*, where *Totius Regni Proceres, etiam* Northumbriæ *Comites tunc famoſiſſimi*, Sywardus, Leofricus, *omniſque Anglorum Nobilitas convenêre. Et Anno* 1052. at London, *Rex & omnes Regni Magnates ad Parliamentum apud* London *tunc fuerunt*, Mr. *Pryn* declaring his Opinion, That the former and ancient Parliaments conſiſted of our Kings and their Spiritual and Temporal Lords, without any Knights, Citizens, or Burgeſſes, Summoned to Aſſiſt or Adviſe with them, or to Aſſent unto what they Enacted or Ordained. In the 25*th*. Year of his Raign granted Lands and Liberties to Saint *Peters* Church at *Weſtminſter*, *Cum concilio & decreto Archiepiſcoporum Epiſcoporum Comitum aliorumque ſuorum Optimatum.*

Secunda Charta E. Confeſſor. S. Petri Weſtmonaſter in Concil collect per H. Spelman.

And from the Conqueſt until that forced ſomething like but not to be accounted a Parliament, in the 49*th*. Year of the Raign of King *Henry* the *Third*, divers Learned good Authors, *Summæ & incorruptæ fidei*, no diminiſhing or additional Record-makers, have aſſured and given Poſterity and after Ages ſuch an exact Account of our Parliaments, as will leave no ground or foundation [e] of Truth or Reaſon for any to believe, That an Elected part of the Commons were before that Impriſonment of King *Henry* the *Third*, in the 49*th*. Year of his Raign, made or Summoned to be a part of our *Engliſh* great Councels or Parliaments.

e Sir *Robert Filmers* Freeholders grand Enqueſt.

The Charter of *William* the *Conqueror* to the Abby of *Battel* was made *Aſſenſu* Lanfranci *Archiepiſcopi Cantuarienſis*, Stigandi *Epiſcopi Ciceſtrenſis*, *& Concilio etiam Epiſcoporum & Baronum ſuorum.* And that great Conqueror had in the 4*th*. Year of his Raign, *Concilium Baronum ſuorum & confirmavit Leges* Edwardi *Confeſſoris, poſteaque Decreta ſua cum Principibus conſtituit.*

Seldeni ad Eadmerum notæ & ſpicilegium 167

LL *Gulielmi Conqueſt in* Hiſt. *Eccleſiaſtgentis Anglorum ex* Beda & LL *Saxonis per* Abrahamum VVhelocum

In the 10*th*. or 11*th*. Year of his Raign *Epiſcopi, Comites & Barones Regni Regiâ poteſtate ad univerſalem* Synodum *pro cauſis audien-*

audiendis & tractandis convocati fuerunt.

Separated the *Courts Temporal from the Spiritual and Eccleſiaſtical*, *Communi concilio & concilio Archiepiſcoporum ſuorum & cæterorum Epiſcoporum Abbatum & omnium Regni ſui*; and in the Regiſter of *Winchelſey* Arch-Biſhop of *Canterbury*, it is Recorded, That *Rex Angliæ* (Gulielmus *Conqueſtor*) *in concilio Archiepiſcoporum Abbatum & omnium Procerum Regni*, did forbid the *Leges Epiſcopales* to be uſed in any Hundred or other ſecular Courts.

And in the *21ſt.* Year of the Raign of King *Edward* the *Third*, Mr. *Selden* ſaith, There is mention made of a Great Councel holden under the ſaid King *William*, wherein all the Biſhops of the Land, Earls and Barons, made an Ordinance touching the Exemption of the Abby of *Bury*, from the Biſhops of *Norwich*.

In that great and notable Pleading for three Dayes together at *Pynnendon* in *Kent*, in the Raign of King *William* the *Conqueror*, who (as Mr. *Selden* repeats it out of the Leiger Book, or Regiſter of the Church of *Rocheſter*) *Anglorum regnum armis conquiſivit & ſuis ditionibus ſubiugavit*, in the great Controverſy betwixt *Lanfranc* Arch-Biſhop of *Canterbury*, and *Odo* Biſhop of *Baieux* and Earl of *Kent*, the Conquerors half Brother, for many great Mannors, Lands, and Liberties of a great yearly Value, which *Lanfranc* claimed to appertain to his Arch-Biſhoprick, of which that potent *Norman* Biſhop and Earl had injuſtly diſſeized him; the King commanded *the whole County* without any delay to Aſſemble together, as well *French* as *Engliſh*, and more eſpecially *ſuch* as were well Skilled and Learned in the ancient Laws and Cuſtoms of *England*, as *Goſſridus Epiſcopus Conſtantienſis, qui in loco Regis fuit & juſtitiam illam tenuit*, Elnothus *Epiſcopus de* Roverceſtria, Ægelricus *Epiſcopus de* Ciceſtria, *Vir antiquiſſimus & legum terræ Sapientiſſimus* (*qui ex præcepto Regis advectus fuit ad ipſas antiquas legum Conſuetudines diſcutiendas & edocendas in una Quadrigâ*) Ricardus *de* Tonebregge, Hugo *de* Monte Forti, Gulielmus *de* Acres *Haymo Vicecomes, & alij multi Barones Regis & ipſius Archiepiſcopi & aliorum Epiſcoporum homines multi*, whoſe Deciſions made by many Witneſſes, Evidences, and Reaſons, being certified to the King *Laudavit laudans cum conſenſu omnium Principum ſuorum confirmavit, & ut deinceps perſeveraret firmiter præcepit.* Upon a Rebellion of *Raſe de Guader* a *Norman*, made Earl of *Norfolk* by the *Conqueror*, Confederating with ſome diſcontented *Engliſh*, whilſt he was abſent in *Normandy*, upon Notice thereof given, haſted into *England*, where *omnes ad Curiam ſuam Regni Proceres convocavit legitimos Heroes & in fide probatos.*

f *Seldeni ad Eadmerum notæ & ſpicilegium* 198, & 199.

Unto

Unto which may be added, That in the Agreement betwixt King *William* [h] *Rufus*, and *Robert* Duke of *Normandy* his elder Brother, touching his Claim to the Kingdom of *England* (being of great Concern to the People) wherein the King assured to the Duke All that he could Claim from his Father except *England*, it is said, *Pactum juramento confirmârunt duodecim Principes nomine Regis*, and 12. *Barones nomine Ducis.*

h *Mat. Paris.* 16.

In the 2*d.* Year of King *William* the *Second*, there was a great [i] Councel *De cunctis Regni principibus*, and another which had all the Peers of the Kingdom.

i *Selden* tit. honor.

In the 7*th.* Year of his Raign was a great Councel, or Parliament so called, at *Rockingham* Castle in *Northamptonshire*, *Episcopis Abbatibus cunctisque Regni Principibus coeuntibus*; and a Year or two after, the same King *De statu Regni acturus* called thither by his Command his Bishops, Abbots, and Peers of the Kingdom.

Anno 1106. *Robert* Duke of *Normandy* coming into *England*, [k] and seeking to be reconciled to his Brother King *Henry* the *First*, which could not at *Northampton* be effected *Magnatibus regni ob hoc* Londonium *edicto Regis convocatis*, the King by fair Words and Promises so frustrated the Dukes designs, as *Omnium corda sibi inclinavit, ut pro ipso contra quemlibet usque ad capitis expositionem dimicarent, Dux in* Normanniam *iratus perrexit, & Rex ipsum secutus est usque in* Herchebrai *Castellum, trahens secum omnes ferè Proceres* Normanniæ & Andegaviæ, *robur* Angliæ & Britanniæ, *ut ipsum debellaret.*

k *Mat. Paris.* 60. 64, 68.

The Emperour having sent Ambassadors unto him, to request his Daughter *Maud* in Marriage, *Tenuit itaque Rex apud* Westmonasterium *in* Pentecosten *Curiam suam, quâ numquam tenuerat splendidiorem*, wherein the Marriage was concluded.

Anno Domini 1114. *Rex Anglorum* Henricus *fecit omnes suæ potestatis* [l] *Magnates* (as if there were no need of Commons, which were then believed to be included in them) *fidelitatem jurare* Willielmo *filio suo.*

l *Mat. Paris.* 51, & 5.

At the Coronation of which King, who had usurped his said elder Brothers Kingdom, and stood in fear of his better Title, it was said, That all the People of the Kingdom of *England* were present, but the Laws (and Charter) then made were *Per commune concilium Baronum suorum* confirmed; and that Charter was attested by Mauritio *Londonienſi Episcopo*, Willielmo *Wintonienſi electo*, Odoardo *Herefordienſi Episcopo*, Henrico *Comite*, Simone *Comite*, Waltero Gifford *Comite*, Robert de Monti forti, Rogero Bigod & *aliis multis*; *Et factæ sunt tot Chartæ quot sunt Comitatus in Anglia, & Rege jubente positæ in Abbatiis singulorum Comitatuum ad Monumentum.*

In the 3*d.* Year of his Raign, the Peers of the Kingdome were called, without any mention of the Commons; and Orders were at another great Councel made *Conſenſu Comitum & Baronum.* *Florentius Wigornienſis* ſaith, that *Lagam* Edwardi *Regis reddidit cum illis emendationibus quibus eam Pater ſuus emendavit concilio Baronum ſuorum.*

LL H. 1. ca. 2.

After whoſe Death King *Stephen* [m] having Uſurped the Crown of *England*, which did not at all belong unto him, and Fought ſtoutly to keep it, *Concilium congregavit & de ſtatu Reipublicæ cum Proceribus ſuis tractare ſtuduit.*

m *Ordericus Vitalis* lib. 13. 930.

Anno Domini 1153 *Juſtitiâ de Cælo proſpiciente diligentiâ* Theobaldi *Archiepiſcopi* Cantuar' *& aliorum Epiſcoporum regni*, King *Stephen* having no Iſſue *Facta eſt concordia* betwixt him and *Henry* Duke of *Normandy*, after King *Henry* the *Second*, who was by King *Stephen* acknowledged *In conventu Epiſcoporum & aliorum Optimatum*, wherein it was accorded, That Duke *Henry*, ſaith *Mathew Paris*, ſhould Succeed him in the Kingdom, *Stephen* only enjoying it for his Life, if he ſhould have no Children, *ex conceſſione Ducis* Henrici, *ità tamen confirmata eſt pax, quòd ipſe Rex & Epiſcopi præſentes cum cæteris Optimatibus regni* (no Commons) *jurarent, quòd Dux poſt mortem Regis ſi ipſum ſuperviveret, Regnum ſine contradictione aliqua obtineret.*

King [n] *Henry* the *Second*, in the 10*th.* year of his Raign, held a great Councel or Parliament at *Clarendon* (where ſome of the Cuſtomes and Conſtitutions of the Kingdom were Recognized) which was an Aſſembly only of Prelates and Peers.

n *Mat.* Paris. 100.

Anno 1118. in a Peace or League made betwixt him and *Philip* King of *France*, it was agreed, That in any Matters of Difference [o] afterwards ariſeing betwixt them, they ſhould abide by the Award of three Biſhops, and three Barons to be Elected on the *King* of *France* his part, and the like on the *King* of *Englands.*

o *Mat. Paris.*

Anno Gratiæ 1272. *Venit* Oxenford *& in generali Concilio ibidem celebrato conſtituit* Johannem *filium* [p] *ſuum Regem in* Hybernia *conceſſione & confirmatione* Alexandri *ſummi* Pontificis, *& in eodem concilio venerunt ad Regem* Reſus *filius* Gryphini Regulus *de* South-Wales, *&* David *filius* Owini Regulus *de* North-Wales, *qui Sororem ejuſdem Regis Angliæ in uxorem duxerat, &* Cadwallanus Regulus *de* Delmain, *&* Owanus *de* Kavillian, *&* Griffinus *de* Bromfeld, *&* Madacus *filius* Gerverog, *& alii multi de Nobilioribus* Gualliæ, *& omnes devenêrunt homines Regis* Angliæ *patris, & fidelitatem ei contra omnes homines, & pacem ſibi & regno ſervandam juraverunt.*

p *Hovedeni Annales parte poſteriore.* 566, and 567.

In

In eodem concilio dedit Dominus Rex Angliæ *prædicto* Reſo *filio* Griffini *terram de* Merionith, *&* David *filio* Owani *terram de* Elliſmore.

Deditque Hugoni *de* Laſci, *ut ſupradictum eſt, in* Hybernia *totam* Midam *cum pertinentiis, pro ſervitio centum militum de ipſo &* Johanne *filio ſuo, & Chartam ſuam ei inde fecit.*

And being to return an Anſwer to the Popes Letter, inviting him to take upon him the *Croyſado*, q and ſuccour the Holy Land, aſſembled a Parliament at *London*, *ubi dominus Rex & Patriarcha* (Jeruſalem) *Epiſcopi, Abbates, Comites & Barones* Angliæ (but no Knights, Citizens or Burgeſſes thereof ſaith Mr. *Pryn*) Willielmus *Rex* Scotiæ *&* David *frater ejus cum Comitibus & Baronibus terræ ſuæ convenerunt.*

q *Pryns* 1ſt part of a brief Regiſter of Parliamentary writs.

Anno Domini 1162. r (without leave of Parliament or People) *Fecit jurare fidelitatem* Henrico *filio ſuo de hæreditate ſuâ, & inter omnes Magnates Regni* Thomas *Cancellarius primus fidelitatem juravit, ſalvâ fide Regi patri, quamdiù viveret & regno præeſſe vellet.*

r *Mat. Paris.* 98. 154. 158. 166.

In the 22*d.* Year of his Raign held a great Councel at *Nottingham* by Archbiſhops, Biſhops, Earls and Barons.

At *Windſor Communi concilio*, with Biſhops, Earls and Barons. And the like afterwards at *Northampton.*

King *Richard* the 1*ſt.* held ſhortly after his Coronation, upon the invitaton of the King of *France* and his undertaking to do the like, a great Councel or Parliament, *cum Comitibus & Baronibus ſuis* s *qui Crucem ſuſceperant in generali Concilio conſtituti apud* Londonias, taking their Oaths for the recovery of the Holy Land, haſting thither and paſſing into *Normandy* Elianor Regina *mater* Richardi *Regis*, with whom he had left the care of the Kingdom, and *Alays Soror* Phillippi *Regis* Franciæ, *Baldwin* Archbiſhop of *Canterbury*, the Biſhops of *Norwich*, *Durham*, *Winchester*, *Ely*, *Salisbury*, *Cheſter*, *Geffry* the Kings Brother elected Archbiſhop of *York*, and *John* Earl of *Morton* the Kings Brother, ſhortly after *tranſfretâriunt de* Anglia *in* Normanniam *per mandatum Domini Regis, & habito cum illis concilio Dominus Rex ſtatuit* Willielmum *Epiſcopum* Elienſem *Cancellarium ſuum Juſtitiarium* Angliæ.

s *Hoveden.* 376. 378. 413.

Granted to *Hugh* Biſhop of *Durham*, *Juſtitiam à fluvio* Humbri *uſque ad terram Regis* Scotiæ, made his Brothers *John* Earl of *Morton* and *Geffry* elect Archbiſhop of *York*, to ſwear *tactis ſacroſanctis Evangeliis*, that they would not come into *England* within three Years then enſuing, *niſi per licentiam illius*, but ſuddenly after releaſed his Brother *John* of his Oath, and gave him leave to return into *England*, taking his Oath *quòd fideliter ei ſerviret.*

t *Mat. Paris.* 154. *In Craſtino Exaltationis Sanctæ Crucis apud* t Pipewel *Archiepiſcoporum, Epiſcoporum, & aliorum Magnatum ſuorum fretus concilio benignè conceſſit* Galfrido *fratri ſuo Archiepiſcopatum Eborum; & circa dies iſtos iturus ad Terram ſanctam per concilium Magnatum ſuorum* Gerardum *Archiepiſcopum Auxiſnem,* Richardum *de* Canvill &c. *Juſticiarios conſtituit ſuper totum navigium* Angliæ, Normanniæ, Britanniæ & Pictaviæ. *Et tradidit illis Chartam ſuam in hac forma:* Richardus *Dei gratia Rex Anglorum omnibus hominibus ſuis per mare ad Terram ſanctam ituris ſalutem; Sciatis Nos de proborum concilio virorum has Juſtitias ſtatuiſſe,* being certain ſevere Sea Laws, *& illas Conſuetudines ab omnibus obſervandas, & quòd ſinguli Juſtitiariis obedirent, fecit Sacramento confirmari.*

Eodem tempore in the Kings abſence *ad inſtanciam Comitis* Johannis *fratris ipſius Regis convenerunt apud* Pontem de Leodune *inter* Radingum & Windeleſhores *ad colloquium Magnates* Angliæ *de magnis & arduis Regis & Regni negotiis tractatur', in craſtino autem tàm Archiepiſcopus* Rothomagenſis *quàm* Eboracenſis *& Epiſcopi omnes apud* Radingum *convenerunt & colloquio intereſſent.* The Biſhop of *Roan* being ſent thither by the King to take and give him an account thereof.

Anno Domini 1290. *Rex Anglorum* Richardus *ad natale Domini fuit in* Normanniam *apud* Burum, *& ibi tenuit ſolenne feſtum cum Primatibus terræ illius, & poſt natale habitum eſt Colloquium* betwixt the Kings of *France* and *England,* where the Expedition was agreed upon, and a Peace made and ſworn betwixt the two Kingdoms, and the *Comites & Barones utriuſque Regni* (none of the Commons) did ſwear, That they would remain faithful to both the Kings, and make no Warr until fourty dayes after their return, and the Archbiſhops and Biſhops *utriuſque Regni juraverunt* to denounce ſentence of Excommunication againſt the Tranſgreſſors.

Mat. Paris, 156.

In which Warrs in the Eaſt for recovery of the Holy Land, after many glorious Victories obtained againſt the Infidels, King *Richard,* (being ſhipwrackt u and with a ſmall company eſcaping caſt upon the Territories of the envious Duke of *Auſtria* his incenſed *Æmulator,* for that he had cauſed his Standard, which he had ſet up before his at the taking of the Town of *Joppa,* to be taken downe, and thrown into a Jakes) was diſcovered, w way-laid, taken, and delivered or ſold to the Emperour of *Germany* for 60000*l.* of Silver *ad pondus Colonienſium.*

u *Mat. Paris.* 158.

w Idem 172, 173.

And the Emperour (to whom his Brother *John,* who had in his Abſence endeavoured to uſurp his Kingdomes, and with the King of *France* his Confederate x offered great ſumms of Money, whereof the latter would have paid 50000 Marks of Silver and the former 30000, to have him detained Priſoner) deteſting their Practiſes, and ſhewing to King *Richard* their Letters,

x *Hoveden.* 417.

after

after much Reſpects and Kindneſs to ſuch a magnanimous Priſoner, agreed to take for his Ranſom 140 thouſand Marks of the ſame kind of Money, which he paid to the Duke of *Auſtria*, without any thing to be paid for the Expenſes of himſelf or any other; but an Oath was firſt taken by the Biſhops, Dukes, and Barons, that as ſoon as the Money ſhould be paid, *continuò liber proprium regrederetur ad regnum*, which being together with the Emperours Letter publiſhed in *England* by the Biſhop of *Ely* his Chancellor, ſuddenly after *Exiit edictum à Juſticiariis Regis, ut omnes Epiſcopi, Clerici, Comites, Barones, Abbatiæ & Prioratus quartam partem* Redituum *ſuorum ad redemptionem Regis conferrent, & inſuper ad illud Pietatis opus Calices aureos & argenteos ſuſtalerunt.*

And upon his delivery by the Archbiſhops of *Mentz* and *Cologne* y into the hands of *Queen Elianor* his Mother, on the behalf of the *Emperour* gave Sureties or pledges, until all the Money ſhould be paid *Walter* Archbiſhop of *Roan*, *Savarick* Biſhop of *Bath*, Baldwin *de* Wac *& alios multos filios Comitum & Baronum ſuorum de pace ſervanda Imperatori & Imperio ſuo & omni terræ ſuæ dominationis.* y *Hoveden* 417.

The Biſhop of *Norwich* z *dimidium pretij de Calicibus ſumpſit, & de rebus habitis Regi donavit*, and the *Ciſtertian* Monks being alwayes before by Priviledge freed from any Contributions, *Bona ſua univerſa ad Regis redemptionem dederunt.* z *Mat. Paris.* 173.

Anno gratiæ a 1200. King *Richard* being dead Rex Francorum Philippus & Rex *Anglorum* Johannes *inter* Wailan & Butavius *caſtella ad colloquium convenerunt, ubi convenit inter eoſdem Reges cum concilio Principum utriuſque Regni, quòd* Ludovicus *filius* Regis Francorum *& hæres duceret in uxorem filiam* Aldefonſi *Regis* Caſtellæ *&* Neptem Regis Johannis, *&* Rex Anglorum *pro hoc matrimonio contrahendo daret* Ludovico *cum nepte ſua nomine* Blanca *in maritagio Civitatem* Ebroicarum *cum toto comitatu, & inſuper* 30000 *marcarum Argenti.* a *Mat. Paris.* 199. 200, 204. 206.

Rex Johannes *poſt completa negotia in partibus tranſmarinis tranſfretavit in* Angliam, *veniens autem* Londonias *apud* Weſtmonaſterium, Huberto *Archiepiſcopo Cantuarienſi & Magnatibus Regni præſentibus*, Gaufridus *Archiepiſcopus Eboracenſis cum Rege pacificatus eſt, quo tempore* Rex Johannes *ſignificavit* Willielmo *Regi* Scotorum *ut veniret ad eum ad* Lincolniam, *ut ibidem de jure ſuo ſibi ſatisfaceret in Craſtino ſancti* Eadmundi.

Ubi convenerunt Rex *Anglorum* Johannes *&* Rex Scotorum Willielmus *cum univerſa Nobilitate tàm Cleri quàm populi utriuſque Regni*, whence he directed his Writ to the Barons, and thoſe which did hold of him in *Capite*, to come unto him with Horſe and

and Armes to *Northampton*, *die Dominicâ proximè ante* Pentecoſten, *in formâ ſequente.*

b Ro. claus. 6. Johannis m. 2. dorſ.

Rex &c. Henrico b &c. *Mandamus tibi quòd in fide quam Nobis debes, ſicut Nos & corpus & honorem Noſtrum diligis, omni occaſione & dilatione poſtpoſitis, ſis ad Nos apud* Northampton *die dominicâ proximè ante* Pentecoſten, *paratus Equis & Armis & aliis neceſſariis ad movendum cum corpore Noſtro & ſtandum Nobiſcum ad minus per duas quadrageſimas, ità quòd infra terminum illum à Nobis non recedas ut tibi in perpetuum in grates ſcire debeamus* T. &c.

And in the ſame year Summoned the Peers (but no Commons) to a great Councel or Parliament (not for Military Aid) in

c Ro. claus. 6 Johannis m. 3. in dors.

c theſe words, *Rex*, &c. *Epiſcopo* Sarum *Mandamus vobis rogantes, quatenus omni occaſione & dilatione poſtpoſit' ſicut Nos & honorem Noſtrum diligitis, ſitis ad Nos apud* London *die Dominicâ prox' ante Aſcencionem Domini, Nobiſcum tractatur' de magnis & Arduis negotiis Noſtris & Communi Regni utilitate, quia ſuper hiis quæ a Rege* Franciæ *per Nuntios noſtros & ſuos mandata ſunt, unde per Dei Gratiam bonum ſperamus proveniri veſtrum expedit habere Concilium & aliorum Magnat' terræ noſtræ, quos ad diem illum & locum fecimus convocari, vos etiam ex parte Noſtra & veſtra Abbates & Priores conventuales totius Dioceſis veſtræ citari faciatis, ut concilio prædicto Nobiſcum interſitis, ſicut diligant Nos & Communem Regni utilitatem. Teſte*, &c.

And ſhortly after Celebrating *apud* Porteſmue *ſolemnitatem feſti* Pentecoſtes, *Rex cum Regimâ in* Normanniam *Tranſſretârunt, exinde veniunt ad colloquium Reges* Anglorum & Francorum *prope inſulam* Andelard *& pacificè convenit inter eos, & Barones de regno* Francorum *were fidejuſſores pro* Rege *ſuo*, and undertook the Guarranty to compel him, if he ſhould violate that Peace, *Et eodem modo factum eſt in parte* Regis Anglorum.

Et Eodem Anno Rex *fecit generalitèr Acclamari, ut legalis Aſſiſa panis inviolabilitèr ſub pœnâ Colliſtrigiali obſervaretur, quæ probata fuit per piſtorem* Gaufridi *filii* Petri Juſtitiarii *Angliæ, & piſtorem* R. *de* Thurnam, *ità quòd piſtores ſic poterint vendere.*

d *Mat. Paris.* 298, & 299.

King *John* being Dead, d and leaving his Son *Henry* very young, *Willielmus Mareſcallus Comes* Pembrochiæ, without the Conſent of the Commons, or Knights, Citizens, and Burgeſſes Elected, was ordained *Regis & regni Tutor.*

e *Mat. Paris.* 304.

Obiit Willielmus e Mariſcallus *Regis & regni Rector, poſt cujus mortem* Petrus Wintonienſis *fuit* (without the Conſent of the Commons) *Cuſtos Regis.*

In *Anno Domini* 1221. Upon a Rebellion of *Fulke de Brent* and others, *Convenerunt Magnates Angliæ ad Regem apud* Weſtmonaſterium *ut de negotiis regni tractarent*, no Knights, Citizens, or Burgeſſes mentioned.

4. Or

4. or 5. *Henry* the *Third*, *Convenerunt Magnates Regis* (no Commons) *apud* Weſtmonaſterium *ut de negotiis Regni tractarent.* Idem ibidem 310. 316.

Anno g *Domini* 1223. *apud* Londonias *Rex venit* (without the Commons) *cum Baronibus ad colloquium.* g *Mat. Paris.* 316.

Anno Domini 1224. *convenerunt ad colloquium apud* Northampton *Rex cum Archiepiſcopis, Epiſcopis, Comitibus, Baronibus & aliis de Regni negotiis tractaturi* (no Knights, Citizens, or Burgeſſes Elected there preſent) *voluit item Rex uti concilio Magnatum ſuorum de terris tranſmarinis quas Rex* Francorum *paulatim occuparverat*, but was hindered by other Accidents.

Eodem Anno Rex Henricus *ad Natale tenuit Curiam ſuam apud* Oxoniam, *& poſtmodum in Octabis Epiphaniæ apud* Londonias *veniens cum Baronibus ad colloquium, requiſitus eſt ab Archiepiſcopo* Cantuarienſi *& Magnatibus aliis* (no Commons, although greatly concerned in their Eſtates and Liberties) *ut libertates & liberas conſuetudines pro quibus Guerra mota fuit contra patrem ſuum confirmaret.* h *Mat. Paris.* 316. and 318.

Which the King yielding unto, *Habito concilio miſit literas ſuas ad Singulos Vicecomites Regni ut per* 12 *Milites vel legales homines utriuſque Comitatûs per Sacramentum facerent inquiri* (no Writ to Elect Members of an Houſe of Commons in Parliament) *quæ fuerunt Libertates in Angliæ tempore Regis* Henrici *Avi ſui & factam inquiſitionem ad* Londonias *mitterent ad Regem in quindecim diebus poſt Paſcha* (which, ſaith Sir *Henry Spelman*, was never found or returned)

Eodem Anno Murmuratio non modica fuit à Magnatibus Angliæ, *contra* Hubertum de Burgo *Juſticiarium, & Rex* Henricus *curiam ſuam apud* Northampton *tenuit*, when the Arch-Biſhop of *Canterbury, cum Suffraganeis ſuis & militia magna nimis* being preſent, and with great Solemnity pronouncing Excommunication againſt the Diſturbers of the King, the Church, and Kingdom, *undè* (Barones) *Saluberrimo concilio uſi venerunt apud* Northampton *ad Regem univerſi*, ſurrendred unto him the Caſtles and Lands which they had obtained or gained from the Crown.

Anno Domini 1225. which was *Anno* 9 *Henry* the *Third Rex* Henricus *ad Natale Domini tenuit Curiam ſuam apud* Weſtmonaſterium *præſentibus Clero & populo cum Magnatibus Regionis Solemnitate completâ*, Hubert de Burgo, *Domini Regis Juſtitiarius, ex parte Regis propoſuit coram Archiepiſcopis, Epiſcopis, Comitibus, Baronibus, & aliis Univerſis damna & injurias quæ Regi illata fuerant in partibus tranſmarinis, ex quibus non ſolum Rex, ſed & Comites multi & Barones ſunt exhæredati cum ipſo, petiit ab omnibus concilium & auxilium*, and demanded a *fifteenth* of all the Moveables in *England, tàm Eccleſiaſticorum quàm Laicorum*, unto which *Archieſpicopus & tota Concio Epiſcoporum, Comitum, Abbatum, & Baronum, habitâ de-*

liberatione Regi dedère reſponſum, quod gratanter adquieſcerent ſi illis diu petitas libertates, without any Elected for the Commons, *concedere voluiſſet, annuit itaque Rex cupiditate ductus quod petebant Magnates.*

i *Mat. Paris.* 324. *Eodem Anno* i *convenerunt apud* Weſtmonaſterium *ad colloquium Rex Anglorum cum Magnatibus* (no Commons mentioned) where the King *Juſſit ſententialiter diffinire quid de Proditore ſuo Falcaſio foret agendum*; whereupon *Proceres concenſerunt cum Rege*, that he ſhould abjure the Kingdom, *Quo facto precepit Rex* Will' *Comiti Warrenno* to ſee it done.

Mat. Paris. 328. 336. *Anno Domini* 1226. *venit interea terminus Concilii apud* Weſtmonaſterium *præfixus, ubi Rex cum Clero & Magnatibus Regni* (none Summoned or Elected for the Commons) *comparere debuerat ut Domini* Papæ *Mandatum audiret.*

Whereupon the *Legat* preſſing the *Engliſh* Prelates and Clergy in Parliament very hard for a *Tenth* upon their Spiritual Livings, they Anſwered, that *Iſta quæ Nobis proponitis Regnum ſententialiter tangunt & generaliter omnes Eccleſiarum Patronos* (which might have required the Aſſent of an Houſe of Commons; yet were not then either Summoned or Elected) *Tangunt Epiſcopos & omnes Suffraganeos, nec non Innumeres* Angliæ *Prælatos. Cumque ergo Rex propter infirmitatem & Archiepiſcopi nonnulli & Epiſcopi & alij Eccleſiarum Prælati ſunt abſentes & in eorum abſentiam* (Papæ) *reſpondere non poſſunt nec debeant; Quia ſi id facere preſumerent in Prejudicium omnium abſentium Prælatorum fieret.*

Et hiis dictis venit Johannes Mariſcallus *& alij Nuntij Regis ad omnes Prælatos qui de Rege Baronias tenent in Capite deſtinatis, diſtrictè mandantes ne Laicum feudum ſacræ* Romanæ *Eccleſiæ obligârent, unde a ſervitio ſibi debito perſonaliter, Hæc omnia cum Magiſter* Otto *intellexiſſet ſtatum hiis qui alterum diem ibi in media Quadrageſimæ dum ipſe procureret Regis adventum & abſentiam Prælatorum, ut tunc negotium ſortiretur effectum, ſed illud abſque Regis & aliorum qui abſentes erant aſſenſu præfixum diem admittere. Ita ſinguli ad propria ſunt reverſi.*

f *Mat. Paris.* 421. *Rex Convocatis ſeorſim Prælatis & quibuſdam Magnatibus* (no Commons mentioned) *dedit reſponſum Nuntiis Imperatoris circa electionem* Richardi *Comitis* Cornubiæ *Regis fratris in Regem* Romanorum.

Mat. Paris. 336. *Rex Anglorum ardenti deſiderio ſitiens ad partes Tranſmarinas Hoſtiliter tranſfretare convocavit Conciliariis ſuis fecit recitari literas a Domino* Papa *tranſmiſſas quærens,* not to diſturb the King of *France* whilſt he was in the Wars at *Jeruſalem, Ab eis Concilium placuit. Itaque Prælatis & Magnatibus univerſis* (no Commons at that Council) *ut differetur negotium.*

Anno

Anno Henry *the* Third, 11. *apud* Oxoniam *Concilio Congregato denunciavit coram omnibus ſe Legitimæ eſſe ætatis & de cætero ſolutus a Cuſtodia Regni negotia & ſe principaliter ordinaret.*

Anno Domini 1229. which was in 13. *Henry* the *Third, Rex Anglorum* Henricus *ad Natale Domini Curiam ſuam tenuit apud* Oxoniam [l] *præſentibus Magnatibus Regni*, no Commons thither ſent or Elected. l *Mat. Paris.* 333. 429. 435.

Eodem Anno Rex Anglorum Henricus *congregavit apud* Porteſmue *totam Nobilitatem Regni Angliæ Comites*, viz. *Barones & Milites cum tanta equitum & peditum turba quantam nullus Anteceſſorum ſuorum aliquo creditur tempore congregaſſe.* Idem. 363.

Anno Domini 1232 which was 16. *Henry* the *Third, convenerunt nonas* Martij *ad colloquium apud* Weſtmonaſterium *ad vocationem Regis Magnates Angliæ tàm Laici quàm Prælati* (no Commons ſent or Elected) of whom the King requiring Aid for his Wars and payment of his Debts, *Comes Ceſtriæ* Ranulphus *pro* [m] *Magnatibus loquens reſpondit quòd Comites, Barones, & Milites qui de eo tenebant in Capite*, having Perſonally attended him, were many of them gone home, and could give him no Aid; and the Biſhops pretending the Abſence of divers of the Biſhops and Abbots, *petiêrunt inducias* until they all might meet together, *Præfixus eſt itaque Dies à quindecim diebus poſt Paſcha.* m Idem. 372.

Anno 1236. which was 20. *Henry* the *Third, congregati ſunt Magnates Angliæ* (no Commons) Londini *ad colloquium negotiis Regni tractaturi.* n *Mat. Paris.* Idem. 421. 422

Anno 21. *Henry* the *Third, tenuit Curiam ſuam ad Natale apud* Wintoniam *& Miſit per omnes fines Angliæ Scripta Regalia* (his Writs of Summons) *præcipiens omnibus ad regnum Angliæ ſpectantibus.* viz. *Archiepiſcopis, Epiſcopis, Abbatibus & Prioribus inſtallatis, Comitibus & Baronibus, ut omnes ſine omiſſione in Octavis Epiphaniæ* Londoniis *convenirent Regia negotia tractaturi totum regnum contingentia, quod audientes Magnates* (no Commons) *Regis præceptis continuò paruerunt.*

Anno 22. *Henry* the *Third, Rex recedens a* Londoniis *venit* Mortonam *ut ibi revocati Magnates* (only) *audito recenti Imperatoris Mandato una cum Rege de regni negotiis contractarent, Diebus etiam eiſdem Rex* Henricus *Tertius pro ſalute animarum & emendatione Regni ſui Spiritu ductus Juſtitiæ & Prælatis quaſdam Leges novas conſtituit & conſtitutas per regnum ſuum inviolabiliter juſſit obſervari.* *Mat. Paris.* 421. 422. 468.

Et eodem Anno convenerunt Magnates Londini *die ſtatuto multis equis & armis communiti, ut ſi Rex circumventus per lenitatem recalatraret cogeretur.*

Eodem Anno in colloquio (*ad quod ex longinquo Nobiles convocaverat*) he prayed an Aid.

Eodem Anno Scripſit omnibus Magnatibus ſuis, (no Commons) *ut coram eo & Domino Legato Papæ in feſto Exaltationis ſanctæ Crucis apud* Eboracum *convenirent, de Arduis regnum contingentibus tractaturi.*

Anno 24. *Henry* the *Third, convenerunt apud* Radingum *omnes Archiepiſcopi, Epiſcopi & Majores, Abbates & quidam Magnates Regni Papale Mandatum à Domino Legato explicandum audituri.*

Anno 26. *Henry* the *Third, Archiepiſcopus* Eboracenſis *Cuſtos Regni Exiſtens & omnes Epiſcopi Angliæ Abbates & Priores per ſe vel per Procuratores ſuos, nec non & omnes Comites, & ferè omnes Barones* Angliæ *ad Mandatum Domini Regis convenerunt apud* Weſtmonaſterium.

p *Mat. Paris.* 579. *Eodem Anno Rex* p Anglorum *omnibus ſuis* Angliæ *Magnatibus, Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus & Baronibus, diſtrictè præcipiens ut omnes generaliter* Londinum *convenirent die* Martis *prox' ante feſtum Purificationis beatæ* Mariæ *Virginis de negotiis Regni dilationem non Capientibus cum ſumma deliberatione Tractaturi, imminente vero die totius* Angliæ *Nobilitas tàm Prælatorum quàm Comitum & Baronum ſecundum Regium præceptum eſt* Londini *congregata, atque Regi auxilium pecuniare petenti reſtiterent Magnates* (no Commons) *&c. Archiepiſcopus* Eboracenſis *& omnes Epiſcopi* Angliæ *Abbates & Priores per ſe vel per Procuratores ſuos, nec non & omnes Comites & ferè omnes Barones* Angliæ (no Commons) *in Scriptis dederunt reſponſionem.*

Mat. Paris. 639. 28. *Henry* the *Third, Convenerunt Regia ſubmonitione* Londinum *Magnates totius Regni, Archiepiſcopi, Epiſcopi, Abbates, Priores, Comites & Barones tunc* (to anſwer to the Kings demands) *& de communi Aſſenſu electi fuerunt ex parte Cleri* Cantuarienſis, Wintonienſis, Lincolnienſis, & Wigornienſis, *Epiſcopi ex parte Laicorum* (which were not to be believed to be any more preſent, than the *Univerſitas* or whole Body of the Clergy) Richardus *Comes frater Domini Regis, Comes* Bigot, *Comes* Legr' Simon de Monte Forti, & *Comes* Mariſcallus *W ex parte verò Baronum* Richardus de Muntfichet, Johannes de Bailioil, & *de Sancto* Edmundo, & *de* Rameſeia *Abbates.*

Convenêrunt autem iterum (for it appears they had been prorogued) *Magnates cum Prælatis generaliter* Londini (no Commons at all mentioned.)

Upon the Emperor *Fredericks* being Excommunicated, and r *Mat. Paris.* 681. deprived by the *Pope*, notified to the Kings of *England* r and *France*, who fearing the example, had ſent their Embaſſadors to *Rome*, in the 29*th*. Year of the Raign of King *Henry* the *Third*, *Expectantibus Univerſitatis Anglicanæ Procuratoribus viz. Comes* Richardus Bigod *cum ſuis Conſortibus placabile domini Papæ reſponſum.*

Anno

Anno 30. [f] *Henry* the *Third*, *Rex miſſis literis ſuis totius Regni Magnates convocavit* Londini *de ſtatu regni generalitèr tractaturos.* Where the *Pope* intercedes for the Pardon of *Fulke de Brent*, and the King denied it, becauſe the Judgment againſt him was given in Parliament, *ab enim omni Clero & populo regni, per judicium Curiæ ſuæ ab Angliâ fuerat in exilium pulſus, & licet regni cura ſpecialiter ad ipſum ſpectare videretur, debet legis quidem & bonas Regni conſuetudines obſervare*, although *Mat' Paris* himſelf had ſaid, That *Rex* did *ſententialitèr diffinire*, and the *Proceres* and *Magnates conſenſerunt cum Rege*, that he ſhould abjure the Kingdom and be baniſhed (the King's Court being then the Parliament without Commons.)

[f] Idem. 893.

Idem. 325.

P. 324. 329. 693.

Anno 31. *Henry* the *Third*, *Rex cum Magnatibus tractatum habuit diligentem per plures concilium urgens dies.*

Medio Quadrageſimæ edicto Regio convocata convenit ad Parliamentum generaliſſimum Anglicani totius nobilitatis Londini *videlicet Prelatorum tàm Abbatum, Priorum, quàm Epiſcoporum, Comitum quoque & Baronum, ut de Statu Regni jam vacillantis efficacitèr prout exegit urgens neceſſitas contrectarent.*

Upon further troubles and concernments of the Kingdom *Convenêrunt ad Parliamentum memoratum totius regni Magnates*, (no Commons) *imprimis aggreſſus eſt Dominus Rex ore proprio Epiſcopos per ſe, poſtea verò Comites & Barones, deinde Abbates & Priores.*

Mat. Paris. 709. 720. 727. 730.

Afterwards in the ſame Year *Habitum eſt magnum Concilium inter Regem & regni Magnates apud* Wintoniam *ſuper multiplici Regni totius & maximè totius Eccleſiæ deſolatione*, wherein, upon the hopeleſs Account given by *William de Powic*, and *Henry de la Mare*, two of the Procurators ſent to *Rome*, of the *Popes* obſtinacy to continue his Pilling and Polling of the Kingdom:

It is ſaid, *Hæc autem cùm audiſſet dominus Rex cum Magnatibus ſuis* (not the Commons) *commotus eſt vehementèr & meritò, præcepitque voce Præconis in omnibus Comitatibus per omnes villas loca & congregationes*, that no Man ſhould pay any of the *Popes* Exactions.

Mat Paris. 709.

And in the 31. *Henry* the *Third*, *Rex cum Magnatibus tractatum habuit diligentem & per plures concilium urgens dies protelavit.*

Per idem tempus Dominus Rex comperiens regnum ſuum enormitèr periclitari juſſit omnem totius regni Nobilitatem convocari, ut de Statu ipſius manifeſtè periclitantis Oxoniis *diligentèr contrectarent, Prælatis autem maximè ad hoc Parliamentum vocavit arctius.*

32. *Henry* the *Third*, at the *Quindena of St.* John Baptiſt *convenit*

Idem. 749.

venit Londinum *totius Angliæ Nobilitas venientibus in unum omnibus regni Primatibus* in a great expectation of the King's redreſſing of Grievances.

Idem. 758. *Anno* 33. *Henry* the *Third*, Rex *congregavit omnes regni Nobiles, ut eorum conſenſum flecteret ad auxilium dandum*, ſent his Letters by *Symon Paſleu* to the Sheriffs of every County, to Collect what they could of them.

Idem. 814 & 815. *Anno* 35. *Henry* the *Third*, 13 *Calendarum* Martij *habitum eſt Parliamentum magnum* Londini, *ſicut fuerat prælocutum & præfixum*, where *Henricus de Bathonia Juſticiarius Regis* being greatly accuſed by the Commons (not any Commons Elected to come in Parliament) was afterwards, for a Fine or great Sum of Money, pardoned by the King, when he was hugely incenſed againſt him, yet there was enough to manifeſt that there were none of the Commons.

Idem ibidem 833. 835. 837. 852. & 853. *Eodem Anno inſtante Paſchali ſolennitate fecit dominus* Rex *convocari* Londini *omnes Magnates Angliæ cruce ſignatos, ut infra Quindenam Paſchæ ibidem convenirent, & ſuper negotio Terræ ſanctæ cujus honor enormiter vacillare videbatur diligenter contrectarent.*

Adhuc autem non terminato Parliamento, where the King was ſaid to be *inexorabilis factus omni petenti ſaltem breves inducias debitoribus ſuis non conceſſit & graviter Comes (Legriæ) in curia Regis accuſatus*, and when the King *magnâ irâ* had commanded *Richard* Earl of *Cornewall* his Brother, to deliver up his Patent or Commiſſion of the Government of *Gaſcoigne*, which the Earl refuſed, and charged the Citizens of *Bourdeaux* to apprehend him, which they denyed; it is ſaid, that *Noluit autem Rex hoc præcipere Magnatibus Angliæ, certus quòd hoc nullatenus facerent ſine maximâ conſideratione. Rex igitur nè viderentur quidam Magnates qui jam illuc advenerant inaniter fuiſſe convocati diſtrictè tractatum ſuſcitavit.*

Soluto igitur cum Regis, Cleri, & Magnatum indignatione, &c.

Convocatis denuò dominus Rex, Optimatibus ſuis, &c.

Anno 37. *Henry* the *Third*, *in Quindena Paſchæ tota edicto Regio convocata Angliæ Nobilitas* (no Commons) *convenit* Londini *de arduis regni negotiis ſimul cum Rege tractaturi, extiterunt igitur ibidem cum Comitibus & Baronibus quamplurimis, Archiepiſcopus* Cantuarienſis Bonifacius *Epiſcopi Angliæ fere omnes.*

Idem. 805. 806 Where when the King preſſing for Aid and Supplies, could not, upon the Biſhops unwillingneſs, forbear to remember them, how he had in particular advanced many of them beyond their deſerts; they had no better anſwer to return him, than *Domine Rex, non facimus de præteritis mentionem, ſed Sermonem extendimus ad futura*, after many long Debates a

Tenth

Tenth was granted by the Clergy towards the Wars of the Holy-Land, *per viſum Magnatum* (not of the Commons) *cum iter ad* Hieruſalem *arriperet, & à militibus Scutigeris illo Anno ad ſcutum tres Marcæ,* was perſwaded by Fear, or the deſire of the Money, by no Order or Ordinance of Parliament, (to which not any of the Commons, though greatly concerned therein, were Parties) to give his Conſent, and walk with many of the Nobility and Biſhops through *Weſtminſter*-Hall in that direful Proceſſion, with burning Torches, pronouncing Curſes, and wiſhing Damnation, and the fiery Torments of Hell upon the Infringers of the Charters of their and the Peoples Liberties.

38. *Henry* the *Third*, [t] *Conveniſſent univerſi ferè* Angliæ *Magnates*, viz. *Comes* Mareſchallus, R. Bigod, Gilbertuſque de Segrave, *ſpeciales domini Regis Nuntij ad Parliamentum venientes ex parte ejus propoſitum ſuum præcordiale Univerſitati* Angliæ *fortè ſeducti nuntiantes, aderant autem illuc Comes* Richardus *frater Domini Regis Comes* Cornubiæ, *Comes* Wintonienſis *cum domina Regina* (no Commons) *& omnes Epiſcopi* Angliæ (*exceptis duntaxat* Cantuarienſis & Eboracenſis *Archiepiſcopis* & Dunelmenſi & Bathonienſi *Epiſcopis qui cum Rege in* Gaſconia *fuerunt*) where after the neceſſities of the King ſhewed, and the danger of Hoſtilities from the King of *Caſtile, reſpondit Univerſitas*, they did not believe there could be any ſuch danger, *& ſic igitur ſolutum fuit Concilium caſſum & inane.* t *Mat. Paris.* 881.

Eodem Anno [u] *Congregati ſunt iterum* Angliæ *Magnates quibus ſignificabat Rex, quòd pecunia indigebat & viribus amplioribus ad repellendum violentiam magni hoſtis ſupervententis*, but they alleadging former great Taxes denyed it. u Ibedem 887.

Anno 39. *Henry* the *Third, Edicto Regio convocata convenit Magnatum numeroſa multitudo, anno vero ſub eodem ad feſtum ſancti* Edwardi *fuerunt apud* Weſtmonaſterium *omnes ferè* Angliæ *Magnates, ubi Rex petebat auxilium pecuniare.* *Mat. Paris.* 911. 913. 939. 946. 963. 964. 965. 968.

Anno 41. *Henry* the *Third, veniunt* Londini *ad dominum Regem qui multos ſibi cum Comite* Richardo *ibi Magnates congregârat quidam de Primatibus* Alemanniæ, concerning the Election of the ſaid Earl *Richard* to be King of *Almaine.*

Eodem Anno in media Quadrageſima factum eſt magnum Parliamentum, where the Controverſy betwixt the Biſhop of *Lincoln*, and the Univerſity of *Oxford* was debated, *& extitit ibidem tota ferè* Angliæ *Nobilitas*, but no Commons.)

42. *Henry* the *Third, Rex militiam* Anglorum *edicto Regio convocavit venire cum equis & armis contra* Wallenſes.

Et poſt diem Martis, quæ vulgaritèr Hokeday *appellatur, factum eſt*

eſt Parliamemtum, Londini *Rex namque multis & arduis negotiis ſollicitabatur*, where divers Altercations paſſing betwixt the King and the Parliament, it is ſaid, *Doluit igitur Nobilitas Regni in Craſtino & diebus ſequentibus habuerunt diligentem tractatum dominus Rex & Magnates, diebus quoque ſub eiſdem conſtanter & præciſè reſponderunt uno quaſi ore Magnates Regni in Parliamento Regi cùm urgenter ab eis* (the Commons or any of them certainly, not perſonally being preſent) *auxilium poſtulaſſet, quod nec voluerunt nec potuerunt.*

Duravit adhuc Parliamenti prælibati Altercatio inter Regem & regni Magnates uſque diem Dominicam proximam poſt Aſcenſionem, & dilatum eſt Parliamentum uſque in feſtum ſancti Barnabæ *apud* Oxoniam, *interim Optimates* Angliæ *utpote* Gloverniæ Legreceſtriæ Herefordiæ *Comes* Mareſcallus *& alii præclari Viri* (no Commons) *confœderati ſunt.*

Et prolabentibus diebus ante Parliamentum Oxoniale *miſſi ſunt ſolemnes Nuntii, videlicet de Electis Comitibus & Baronibus* (none of the Prelates) *in* Franciam *ad Regem* Franciæ, deſiring him to give them Aid, and not diſturb them in their deſigns for Peace.

Ad diem indictum Oxoniæ *Magnates & Nobiles terræ ad Parliamentum properabant, preceperuntque omnibus qui eiſdem Servitium debuerant*, (which could not be a ſmall number) *quatenùs cum ipſis venirent parati veluti ad Corpora ſua contrà hoſtiles inſultus defenſuri quod fecerunt*, cauſed the Sea-Ports, and their Confederate the City of *London's* Gates to be Guarded by their own Party, where the *Magnates* (not the Common People) demanded Juſtice, and a Confirmation to be made by the King of King *John's*, and his own Charters, *Jurantes fide mediante & mutùo Dextras exhibentes, quòd non omitterent propoſitum perſequi pro pecuniæ vel terrarum amiſſione vel etiam pro vita & morte ſua vel ſuorum.*

Mat. Paris 971.

Recalcitrantibus Edwardus *Principe* Johanne *Comiti* Warrennæ Willielmo *de* Valentia *cum aliis*, and when *Henry* the Son of *Richard* King of *Alemaine*, began to joyn with them in the refuſal he was told, *quòd etiamſi pater ſuus adquieſceret Baronagio* (no Yeomanry or any other under their degree of Barons) *Nollet nec unum ſulcum terræ in* Anglia *obtineret.*

The King and his Son *Edward*, after all the Barons had Sworn unto them, were at length compelled to Swear to perform and obſerve all ſuch Ordinances and Proviſions, as the rebellious Barons had there made, who did ſhortly after ſend Meſſengers, *ex parte Univerſitatis Regni*, to the City of *London*, whom they underſtood to be in themſelves compre-

hended, (for the *Londoners* were thoſe that were ſent unto, not the Barons, who did ſend unto them) *qui convocaverunt totius Civitatis cives* (then no inconſiderable part of the *Engliſh* Nation, either as to Number, Riches, or Faction) *quos Barones vocant* (no Peers of Parliament, for they were as was then believed another kind of Barons) *& in aula quæ* Gildehall *appellatur*, [u] demanded of them *ſi Statutis Baronum vellent fideliter obtemperare*, and joyn in the reſiſtance of thoſe which ſhould infringe them; to which they thankfully gave their Conſent, *Et confecerunt ſuper hoc eis Chartam ſuam de communi ſigillo Civitatis conſignatam; veruntamen non adhuc quæ Statuta fuerant propoſuerant publicare circa idem tempus convocati fuerunt Prælati univerſaliter ut* Oxoniæ *convenientes nè penitùs cadat, Statum reformarent convenêrunt quatuor Epiſcopi ad hoc ſpecialiter deputati, qui convocaverunt exemptos omnes Abbates & alios alterius Ordinis vel eorum idoneos Procuratores* (no Laicks or *vulgus*) *ſcire volentes, ſi eorum Statutis vellent acquieſcere & eorum defenſioni & ſuſtentationi unanimiter adhærere, ſed quia quidam excuſatione abſentes, quidam in aſſenſu dubitantes, nullum tunc potuerunt dare reſponſum receſſerunt omnes imperfectum relinquentes Iudicium.*

[u] *Mat Paris.* 974.

Which manifeſtly evidenceth, that at the Parliament at *Oxford*, the Citizens of *London* had no Burgeſſes then and there repreſenting in Parliament for them, and there appeareth no Conſent there given or demanded by or from any other County, City, or Borough, in that Parliament, or given by them, or any of them, to the ſaid Proviſions made at the aforeſaid Parliament at *Oxford*.

And the *Univerſitas Regni* at *Oxford* there Aſſembled, can receive no other proper or genuine Interpretation, that they were thoſe that were Aſſembled at *Oxford*, (no elected Men of or for an Houſe of Commons in the Parliament at *Oxford*, not at all there meant or intended by the Party or Proviſions made at *Oxford* for the aforeſaid Conſervatorſhips, of which the Commons of *England* were never agreed to be any part or parcel) but only for ſuch as were Aſſembled at *Oxford*, which were none other than the *Magnates* and *Optimates Regni*, with their *Milites* and numerous Attendants, ſome whereof were eſpecially named, as the Earls of *Gloceſter* and *Leiceſter*, Lord High Steward of *England*, Earl of *Hereford*, Conſtable of *England*, the Earl Marſhal of *England*, *& alii præclari viri*, their Confederates, with Letters and Statutes ſent as aforeſaid, from the Barons at *Oxford*, to the Citizens of *London*, brought an imperfect Return, for that ſome of the Citizens of *London* were then abſent, and the other were not re-

ſolved what to anſwer or aſſent unto; ſo as the Meſſenger ſent to *London* from the Barons at *Oxford*, returned *Imperfectum relinquentes Judicium.*

w *Mat. Paris.* 978. 981. *Deſtinantur poſtea Nuntij ſolennes ad Dominum Papam* w *ex parte Regni & totius Univerſitatis, qui nuntia ſua domino Papæ plenariè intimarent, & quàm citius poſſent non expectantes aliquam diſputationem vel diſceptationem remearent.*

Anno verò ſub eodem Philip' Lovel, Treaſurer of the King, *Capitales Juſtitiarij & quam plures de ſcaccario* were removed from their places, and others put therein *judicio Baronagij.*

24. *Henry* the *Third, Fuit Rex ad Natale domini* Londini, *ubi Magna ſolicitudine tractatum eſt inter Nobiles Regni, quomodo conſervato ſuo ſalubri propoſito ſatisfacerent deſiderio Regis* Richardi *de* Alemannia.

The King Journeying towards the Sea to meet his Brother the King of *Almaine.*

Who was reported to have raiſed Forces beyond the Seas to Succour him, and who the Baronage feared would come and alter what they had done, *Nuntii ſolennes* (wherein certainly according to their uſual Phraſe they intended themſelves, not the Common People) *a Communitate Regni* Angliæ *deſtinati*, brought an Anſwer from him, *ſi Nobiles* x Angliæ (which he certainly underſtood not to be the common People, nor that they that ſent them were the common People, or that the Nobility were intended to be a part of them, but rather that their Wills and Actions were wholly ſubmitted to the Peerage) *reformare voluiſſent Regnum deformatum me deberent primùm accerſire.*

x *Mat. Paris.* 983. 984, 985, 986, 987.

In Craſtino poſt ejus adventum in Angliam *intraverunt Magnates Capitulum* Cantuarienſe (ſo great a Power had they then over their Tenants and the Common People) *ducenteſque reverenter Reges* Angliæ *&* Alemanniæ, the Earl of *Glouceſter ſtans in medio*, called out the King of *Almaine* by the name of the Earl of *Cornewall*, to take the Oath for a general Reformation of the Kingdom.

Eodem Anno being 43. *Henry* the *Third, Congregati ſunt Nobiles* Angliæ Londini *prout inter ſe prius condixerant*, whither came *quidam de ſecreto Regis* Francorum *concilio Decanus* Bituricenſis, *ubi non modicè tractatum fuit de negotio inter duos Reges* Franciæ *&* Angliæ *& quid in partibus tranſmarinis actum fuerit & exinde probatum.*

After which a Monk of St. *Albans ex parte Regis, Reginæ, & Magnatibus* Angliæ, finding the King, Queen *& Magnatibus* Scotiæ in their Parliament, and informing them of the cauſe of his coming

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ex parte Regis, Reginæ & Baronum Angliæ, requested that the King and Queen would not fail to come into *England*, to treat of Matters of great Concernment and Secrecy, with much difficulty obtained Letters Patents from the King, Queen, and Nobility of *Scotland*, *Communitèr ſigillatas tàm ſigillo Regis quàm omnium Magnatum* Scotiæ *ad Regem* Angliæ *& totam communitatem*, wherein they granted their Requeſt, *dummodo ſe facerent Rex* Angliæ *& Magnates* (which explains the extent and true meaning of the preceding words, *Tota Communitas* Angliæ) *de ſcripto ſuo ſibi prius promiſſo ſecuros*, and returned by him *Domino Regi* Angliæ *& Reginæ & Magnatibus terræ Literas commendatorias*, and did ſhortly after ſend the Earl of *Bochan*, and other honourable Commiſſioners to Treat with the King of *England & ejus Concilio*, who at their coming, ſpeaking with the ſaid Monk, *Nullam in publico ſuper expeditione negotij erga Regem & Regni communitatem* (which may in this place well be underſtood to intend the Baronage) *reliquerunt redeuntes Certificationem.*

Eodem Anno ex concilio domini Regis Franciæ, Angliæ *& totius Baronagij*, the Earls of *Clare* and *Leiceſter*, *John Manſell*, *Peter de Sabaudia*, and *Robert Wallerand* were ſent *ad Parliamentum Magnum Regis* Francorum *pro pluribus negotiis regna* Franciæ *&* Angliæ *contingentibus*, carrying with them a Charter or Reſignation from their King to the King of *France*, and Letters of Credence, to compoſe with that King and his Councell *ſuper negotiis* (without the Commons or their Conſents) *inter eoſdem Reges & eorum regna diu agitatis*; but for that the Counteſs of *Leiceſter* refuſed to reſign that part, which ſhe held or claimed in *Normandy*, *infecto negotio cachinnantibus* Francis *redierunt*. *Mat. Paris.* in vita *Henrici* 3.

In the mean time the *Almaines*, perceiving how little their King elected was reſpected in *England*, returned home, ſaying, *Ex quo compatriotæ ſui ipſum non venerantur, nos ipſum quomodo honoribus proſequemur?* And in his Abſence elected another.

Eodem Anno King *Henry* the *Third in* Franciam *transfretavit*, and required Reſtitution to be made of the Provinces in *France*, unjuſtly taken away from his Father King *John*, and detained from him; unto which the *French* anſwered, That the Donation of *Normandy* was not free, but by force extorted by *Rollo*, ſo as the King, if he had a mind to regain it, having not Money to raiſe an Army, and eſpecially when he did ſee his own Subjects ready to make War againſt him, was enforced to yield to a Peace, that *pro* 30000 *Turonenſibus parvis & reſtitutione terrarum* in *France* unto him *ad valorem* y 20000 *librarum in Gaſconia*, the King was to reſign and releaſe to y Continuatio *Mat. Paris.* 980. 990 991. 992. 1000.

the King of *France* his Dutchy of *Normandy*, and County of *Anjou*, & *ex tunc literarum ſuarum abbreviavit titulum, ut nec Ducem* Normanniæ *nec* Comitem Andegaviæ *ſe vocaret.*

And fearing that he had committed Perjury in taking the Oath, to obſerve the Proviſions enforced from him at *Oxford*, ſent ſecretly to the *Pope* for an Abſolution.

Eo tempore Symon *de* Monte Forti *Comes Legriæ*, Richardus *de* Clare *Comes* Gloverniæ, Nicholaus *filius* Johannis, Johannes *filius* Galfridi, *multique Nobiles ipſis adhærentes convenerunt* Oxoniæ *equis & armis ſufficienter inſtructi, finaliter Statuentes aut mori pro pace patriæ aut pacis eliminare Patriæ turbatores*; whither came alſo the Biſhop Elect of *Wincheſter William de Valentia*, and the reſt of the *Poictovins ſtipati Magna caterva ſatellitum & fautorum*; but when they underſtood, that the *Engliſh* Nobility intended *eos vocare ſtandum judicio pro ſuis nequam factis, ſimul & communiter jurandum cum eis ad obſervandum proviſiones*, they fled to the Caſtle of *Whiteſey*, whither the Barons purſued them, and fearing that the Biſhop Elect of *Wincheſter* would carry his Complaints to *Rome* againſt them, ſent four Knights as their Agents to *Rome*, with Letters under their Hands and Seals (not of the Commons) to complain of the Injuries which the Biſhop had done to the Kingdom; and the Juſtices *itinerant* of the King, were at *Hereford* prohibited to proceed, for that as was alleadged, it was againſt the Proviſions made at *Oxford.*

Anno 45. *Henry* the *Third*, the King retired to the Tower of *London*, and cauſed all the Citizens of *London* above the Age of *Twelve* Years, to Swear unto him Fealty, and made Proclamation that all that would come as Souldiers to ſerve him ſhould be paid; the Barons came with great Forces to the Walls of the Tower; lodging in the City, the Abſolution being come, and Prince *Edward* not accepting it, which the *Magnates* (not the Multitude or Commons) taking notice of *miſſis Nuntiis humiliter rogabant, ut* [z] *communiter juramentum præſtitum inviolabiliter obſervare vellet, & ſi quid diſpliceret, eiſdem oſtenderet ad emendandum, Qui nequaquam acquieſcens, durè & minaciter reſpondens, dicens, quòd eis à Conventione deficientibus non amplius adquieſceret, ſed unuſquiſque deinceps propriis defenſionibus provideret, tandèm quibuſdam mediantibus* it was agreed, that Two ſhould be choſen on the King's part, and Two on the Barons, (no Commons mentioned) and the Arbitrators were, if they could not agree, to chooſe a Third; but by reaſon of Prince *Edwards* late return from beyond the Seas, and that being returned, and informed what ſtrange Councels had been given his Father, was ſo Angry as he abſented himſelf from him,

z *Mat. Paris.*

him, and adhering to the Barons, ſaith the Continuator of *Matthew* [a] *Paris*, *in hac parte prout juraverat ſitque conjuratio inter eos, quòd malos Conciliarios & eorum fautores adquirerent & à Rege pro viribus alongarent*, which the King underſtanding, betakes himſelf again to the Tower of *London*, *Cum ſuis Conciliariis*, Edwardo *filio ſuo cum Magnatibus foris remanente, ſed tandem interveniente Regina vix quibuſdam concordati Magnatibus in pacis amplexibus invicem ſunt ſuſcepti*, and the King relying upon the *Popes* Abſolution, and the promiſe of the King of *France unà cum ſuis Magnatibus ſibi ſe velle ſuccurrere manu forti*, coming to *Wincheſter* diſplaced the Chancellor and Juſtice made by the Baronage, & *novos creavit pro ſuo beneplacito*. a *Mat. Paris.*

In the 47*th*. Year of his Raign, keeping his *Chriſtmaſs* with the Queen in the Tower of *London*, *Elaboratum eſt tàm à Regni* Angliæ *Pontificibus quàm à Prælatis* [b] *Regni* Franciæ, that there might be a Peace betwixt the King of *England*, and his Barons, *Ventumque eſt ad illud ut Rex & Proceres* (not the Commons) *ſe ordinationi Regis* Franciæ *in præmiſſis proviſionibus* Oxoniæ *ſubmitterent*. b *Mat. Paris.*

Whereupon in *Craſtino ſancti* Vincentij *congregato* Ambianis *populo penè innumerabili*, *Rex* Franciæ Lodovicus *coram Epiſcopis, Comitibus, aliiſque* Francorum *proceribus*, (the King of *England*, and his Queen, *Boniface* Arch-Biſhop of *Canterbury*, *Peter* Biſhop of *Hereford*, and all or moſt of the *Magnates* of *England*, before named (no Commons) which ſubmitted to the reference on both ſides) *Solennitèr dixit ſententiam pro Rege* Angliæ *contra Barones ſtatutis* Oxoniæ *proviſionibus, ordinationibus, & obligationibus penitùs annullatis, hoc excepto, quòd antiquæ Chartæ Regis* Johannis Angliæ *univerſitati conceſſæ per illam ſententiam in nullo intendebat penitùs derogare*; which Award both Parties having ſolemnly bound themſelves by Oath to abide by, *Simon* Earl of *Leiceſter*, and his Complices refuſed to obey it; for that as they pretended the Proviſions made at *Oxford* were founded upon that Charter of King *John*: So as the troubles and diſcontents continuing, and breaking out into open Wars betwixt the King and his never-to-be-contented Barons, the Battel of *Lewes* ſhortly after followed, wherein the King was taken, and for a long time detained Priſoner, (the King of *France*, and his Barons after a great part of his Deſign ſatisfied by getting a Releaſe of the Dutchy of *Normandy*, giving him no manner of Aid at all) nor after the more ſucceſsful Battle of *Eveſham*, had by the Eſcape and Valour of his Son the Prince reinveſted him in his Kingly Rights, that King of *France*, and his Father before him playing the Foxes betwixt the King and his Father King *John*, in their Troubles with their unruly and

and rebellious Barons for their *French* advantages.

Anno 50. of his Raign, kept his *Chriſtmaſs* at *Northampton*, with his Queen, the King of *Almaine*, and *Ottobone* the *Popes* Legate *cum exercitu formidabili.*

Anno 51. kept his *Chriſtmaſs* at *Oxford*, with the Queen and the *Popes* Legate, *multiſque Magnatibus, ubi*, after the ancient courſe of our *Engliſh* Kings, at that and the other Two great Feſtivals of the Year, to hold their great Councels, *diligentèr tractatum eſt de pace reformanda inter Comitem* Gloverniæ *&* Rogerum de Mortuo Mari: *Circa tempus iſtud Rex citari fecit Comites & Barones, Archiepiſcopos, Epiſcopos, & Abbates omnes, qui communitèr militare ſervitium ſibi debentes, ut apud Sanctum* Edmundum *cum equis & armis* [c] *ſufficientèr inſtructi convenirent ad impetendum eos qui contrà pacem Regiam occupaverunt inſulam Elyenſem*; but the Earl of *Glouceſter* refuſing to come, the Earl of *Warren*, and *William de Valentia* were ſent unto him, *qui illum ad Parliamentum venire moverent ab adunatis qui ad Parliamentum citati fuerunt præter rebelles*, where *primò & principalitèr Rex & Legatus*, required the Biſhops to conſent to the Articles or Demands before recited.

[c] *Mat. Paris.* 1002.

Anno 54. of his Raign the King and Queen *cum Regni principibus*, kept their *Chriſtmas* at *Eltham.*

So as that honourable Title of Barons, and thoſe that have a juſt Claim or Right thereunto, is not to be trampled upon, and thrown amongſt the Community, but *contra* diſtinguiſhed from them, when *Baro* ſaith, The largely Learned *Du Freſne* a *French* Man, *Sieur* or *Baron du Cange* was in *Perſius* time amongſt the *Romans*, of no greater eſteem than *Servus militum*, and by *Iſidorus* were termed, or no better ſtiled than *Miniſtri mercenarii, qui ſerviunt acceptâ mercede*, yet *apud* Græcos *nominantur Barones, quòd ſint fortes in laboribus*; *Barus enim dicitur gravis, quòd ſit fortis, Gloſſæ M. S.* Baro *Gr' Lat' vir fortis, unde Barones*; *Barones igitur Miniſtri appellati non modo* Perſii *&* Iſidori *ævis, ſed etiam longè poſtea, ſiquidem Barones regios Miniſtros vocatos qui ex Regis familia erant, unde non mirum ſi traductam hanc vocem ad viros Magnates paſſim legamus, qui principibus ipſis obſequia & miniſteria ſua præſtabant, ſeu ex officii ratione ſeu ex beneficio ac feudis quæ ad ejuſmodi obſequia impendenda iis indidem conferri ſolebant*; *Quinetiam ab ipſa* Auguſtini *tempeſtate Barones dicti videntur viri nobiles Principum obſequiis & ſervitio addicti, vel certè viri Militares qui primos tenebant locos in aulis Regum*, as thoſe Words of his do Evidence, where he ſaith, *Vbinam eſt* Cæſaris *corpus præclarum ubi caterva Baronum, ubi Principes aut Barones*; *Quibus in locis ij fortè fuerunt qui in obſequiis Principum verſabantur, ità ut numeroſum eorum ac Nobilem famulatum indicare voluerit* Auguſtinus; *Quemadmodum autem*

Gloſſar' *Du Freſne* in verbo ſeu *tit.* Baro 485. & 486. *Iſidor'* de orig' verborum.

Auguſtini Serm. 48 ad fratres in eremo.

tem famulos homines vulgò appellabant. Ita Franci *& omnes Boreales populi poſtquam* Galliam *invaſère vel* Italiam *Barones quoſvis viros nominârunt*, as their *Salique*, *Ripuar*, *Aleman*, and *Longobard* Laws, *Conſtitutiones Sicul.* Capitulars of *Charlemaine* and *Hinckmarus* in his Epiſtles have informed us: The *Barones Regum* Angliæ were the *Magnates, qui de domo & familia Regis ſunt vel certè majores Regis Vaſſalli qui de illo prædia ſua nudè tenent*; *Adelwaldus* was one of King *Edward* the Confeſſors, which *Florentius Wigornenſis*, and the Book of *Ramdſey* do ſtile *Miniſter Regis*: The Barons of *Almaigne*, from which Nation our *Saxon* Anceſtors being deſcended, brought unto us many of their Cuſtoms, made a two-fold difference amongſt their Barons, *Alii dicuntur ſimplices Barones, alii ſemper Barones, & ſemper* Baro *is eſſe fertur qui à nullo horum feudum habet, ſed alii ab ipſo, adeòque liber eſt ut nulli ad fidelitatis aſtringitur juramentum*; inſomuch as it was a very ancient Cuſtome and Obſervance amongſt the *Germans*, not to allow the Title or Dignity of Baron unto any that were not Born of ſuch a *Frey Heeren* Father and Mother, but thoſe who were on the Mothers part deſcended from an ordinary Tenant, holding by Military Service of others, they would by no means call Barons, but Debaronized them (which in time might have introduced amongſt us, that Diſtinction long after about the Raign of our King *John* of the *Barones majores*, thoſe that were *Miniſtri Regis*, and held great Poſſeſſions only of the King, for long before the Conqueſt they were called *Thaines*, *Barons*, or *Lords*, who were Honorary, and the *Minores* middle *Thaines* or *Valvaſores*, who were only feudal, and held all or much of others or leſſer parts of the King, and by *Canutus*'s Laws there appears to have been in thoſe times *Thani infimæ conditionis*: In *Germany*, ſaith *Schwederus*, there are two ſorts; The *Firſt* that do hold of the Empire immediately; The *Second* mediately of others, and that in the diverſity of Opinions amongſt the Learned, whether the word *Baron* be derived from the *Hebrew*, *Greek*, *Latine*, *Spaniſh*, or *French*, the *Germans* have been content with their own word, or original *Baar*, which ſignifieth *Frey* or *liber homo & Barones are liberi Domini* Frey Heeren: *Et Baro* ſignifieth *virum dignitate præcellentem*: So as that exquiſitely Learned *Du Freſne* in his Gloſs upon the words *Barones Parliamenti*, ſaith, *In* Anglia *&* Scotia, *qui vulgò* Lords of Parliament *vocantur, ij ſunt ex Majoribus Baronibus qui à Rege undè pendent & ad Parliamentum ſive concilium publicum diplomatibus Regiis evocantur, nam conſtat in* Anglia *ut in* Francia *non omnes qui à Rege prædia ſua immediatè tenebant ad Parliamenta admiſſos, nam nimius eſſet numerus eorum*

Lindenbrogius in legibus eorum. *Hinckmarus* in Epiſt.

Du Freſne 1 Tom. 487.

Selden tit. honor. 621. 622, 623, 624, 625. LL Canuti.

Schwederus Part 2. S. 2. p. 838.

Du Freſne Gloſſar' 491.

eorum, ſed illos tantum qui proximi eſſent a Rege & dignitate & vaſſallorum numero cæteros anteirent, prout etiam in ipſis Baronum feudis factitatum: And defining a Barony, ſaith it is *Prædium à Rege nudé pendens vel maius prædium vel feudum*; *Caſſanæus* taketh it to be *Quædam dignitas habens quandam præeminentiam inter ſolos ſimplices Nobiles.*

Caſſanæus in catalog glor' mundi 8 parte *S.* 15.

Tiraquel de nobilitate & *Virgilius Æ*-ned 5.

Tiraquel by good Authority of rectified experimented Reaſon, Laws, and ancient Cuſtoms, ſaith, *Leges ſanciri debent a Principibus etiam Nobilium concilio quod plane oſtendit* Virgilius *de* Aceſte *Rege loquens*

Gaudet regno Treianus *Aceſtes*
Indicitque forum & Patribus dat Jura vocatis.

Id eſt, Leges ſancit Jura diſtribuit vocatis ad id Patribus id eſt Senatoribus. L' Oyſeau defining Seigneuries ſaith, they are *Publique ou prives*, and that *les droits & prærogatives des grandes Seigneuries a ſcavoir les Duchez, Marquiſats, Comtez & Principautez, dont le premier eſt qu'elles ne relevent que du Roy, encore que de leur nature elles deuvoient relever immediatement de la Couronne. C'eſt pourquoi les Feudiſtes les appellent* Feuda regalia *ou* Regales dignitates *tit' de* Feud *encore non tant pour ce qu'elles participent aux honeurs des ſouverainetez que de leur d'autant qu'elles ſont vrays Fieffs du Roiaume ne pouvant relever d' autre Seigneurie.*

L' Oyſeau traite des *Seigneuries.* Ca. 66.

Idem ibidem. Ca. 1. and 6.

Et tout ainſi que ces Capitaines ſ' aydoient de leurs vaſſaux en la guerre auſſi faiſoient ils en les Juſtices principalement aux cauſes d' importance qu' ils Iugoient par leur advis & pour ceſte raiſon ils les appelloient Pairs Cour, C'eſt a dire Pairs au Compaignons de leur Cour de Juſtice.

Saith, *le Seigneurie privee n' induit point de puiſſance publique*, and concludeth and proveth it to be *un Erreur d' penſer qu' aux livres de Fieffes Valvaſores Regni ſeu Majores valvaſores fuſſent ceux qui tenoient leurs Fieffs a Capitaneis Regni, nempe a ducibus & Marchionitibus.*

1 *Eliz.* ca. 1.

And were had in ſuch a Veneration and Reſpect, as when in the firſt Year of the Reign of Queen *Elizabeth*, an Act of Parliament was made, that every Member of the Houſe of Commons ſhould before the Lord *Steward* of the King Queen, or her Succeſſors Houſhold, or his *Deputy*, for the time being before they ſit, or be admitted by his Oath taken upon the Holy *Evangeliſts*, teſtify and declare, *That the Queens Majeſty is the only Supreme Governour of this Realm, and of all other Her Highneſſes Dominions, and Countries as well in all Spiritual and Eccleſiaſtical things or cauſes as Temporal, and renounce all Foreign Juriſdiction of any Foreign Prelate, Prince, or Potentate whatſoever.*

Oath of Supremacy.

Oath of Allegiance.

And promiſe that from henceforth I ſhall bear Faith and true Allegiance

giance to the Queens Highneſs, her Heirs, and Lawful Succeſſors, and to my Power ſhall aſſiſt and defend all Juriſdictions, Priviledges, Preheminences, and Authorities granted or belonging to the Queens Highneſs, her Heirs, and Succeſſors, or United and annexed to the Imperial Crown of this Realm.

From the taking of which Oath, the Lords Temporal, and all of or above the degree of a Baron, were by that Act of Parliament of 5. *Eliz. exempted, for that the Queens Majeſty is otherwiſe ſufficiently aſſured of the Faith and Loyalty of the Temporal Lords of her High Court of Parliament.*

Although of that High and Honourable Aſſembly of the Houſe of Peers, all that hold Offices under our Kings, as the Lords Chancellour, Treaſurer, Steward, great Chamberlain, and Chamberlain of the Houſhold, Conſtable, Earl Marſhal, Lord Privy-Seal, Secretaries of State, and all that receive Creation-Money of him, as Earls, Viſcounts, Marqueſſes and Dukes, and all the Aſſiſtants as Judges, Maſters of Chancery, and the Barons in that high Court of Judicature, Subordinate to the King, may find themſelves comprized and obliged in and by that Act of *Primo Eliz. ca.* 1. as the Arch-Biſhops and Biſhops are.

For it may everlaſtingly, with great aſſurance of Certainty and Truth, be affirmed, That our Parliaments or great Councells have in their Conſtitutions, Formes, Cuſtomes, and Uſages, altogether or for the moſt part followed, and imitated thoſe of the *Almans*, *Saxons*, and Ancient *Francks*, when *Marculfus*, who lived in the Year after the Incarnation of our Bleſſed Saviour *Jeſus Chriſt*, *Six Hundred* and *Sixty*, now ſomething more than *One Thouſand* Years, when *Clodouæus* the Son of *Dagobert* of the *Merovignian*, and firſt Race of the Kings of *France* ruled, as it will be Evident by the Writ of Summons thereunto, Entituled, *Prologus de Regis Judicio cum de Magna re duo cauſantur ſimul*, in the form or words enſuing, (or the cauſe of Summoning or Calling the Parliament as our Kings have many Times done in their Writs of Summons to their Parliaments) *Viz.* *Marculfi formulæ in præfat.*

Cui Dominus regendi curam Committit cunctorum Jurgia diligenter examinatione cum rimari oportet, ut juxta propoſitionum vel reſponſionum alloquia inter alterutrum ſalubris donetur ſententia, quo fiat ut & nodos cauſarum vivacis mentis acumen coerceat, & ubi prælucet Juſtitia illuc greſſum deliberationis imponat: Ergo nos in Dei nomine ibi in Palatio noſtro ad univerſorum Cauſas recto Judicio terminandas, una cum Dominis & Patribus noſtris Epiſcopis vel cum plurimis Optimatibus Noſtris patribus illis Referendariis illis Domeſticis illis vell Seneſcallis illis Cubiculariis *& illo Comite Palatii vel reliquis* *Marculfi Lib. 1. Ca. 25.*

quam pluribus Noſtris fidelibus reſideremus ibique veniens ille illum interpellavit cum diceret, &c.

Bugnonii notæ in *Marculfum* 510.511, 512, 513,514, 515, 516.

Upon which words, *viz. Una cum Dominis & Patribus Noſtris Epiſcopis*, the Learned *Bignonius* Commenting ſaith.

Hi enim in Judiciis Regi aſſidebant, ut etiam notavit Tillius, *qui rectè Curiæ ſeu Parliamenti originem hinc deducit, illudque ita duraſſe uſque ad* Philippi Valleſy *tempora, qui ampliſſimum* Pariſienſem *Senatum à Comitatu & Conſiſtorio Principis ſeparatum edicto conſtituit. Hujus quoque Judicii Epiſcopis & Proceribus adſtantibus forma refertur Antiquitatum* Fuldentium Lib. 1. *Anno Dominicæ Incarnationis* 838. Jnd. 1. 18. K L. Julii *facta eſt Contentio* Gozboldi & Hrabani *Abbatii coram Imperatore* Ludovico *& filiis ejus* Ludovico & Carolo, *necnon & Principibus ejus in Palatio apud* Niomagum *oppidum conſtituto de Captura*, &c. *Preſentibus* Trugone *Archiepiſcopo*, Otgario *Archiepiſcopo*, Radolto *Epiſcopo*, &c. Adalberto *Comite*, Helphrico *Comite*, Albrico *Comite*, Popone *Comite*, Gobavuino *Comite Palatii*, Ruadharto *ſimiliter Comite Palatii, & Innumerabilibus Vaſſallis Dominicis.*

So did the *Referendarii*, Maſters of Requeſts or *Chancery*, the *Seneſcallus Palatii*, the *Cubicularii.* And *Bignonius* moreover declareth:

Idem Ibidem 586. 587.

Domeſtica dignitas fuit non Contemnenda ſub prima & ſecunda Regum noſtrorum familia, nam inter præcipuos Regni Miniſtros Domeſtici ſæpe enumerantur; & in præfatione Leg' Burgundion' *Sciant itaque Optimates Comites Conſiliarii domeſtici & Majores domus noſtræ & cum munera in Judicio accipere prohibeantur, eos quoque Judicaſſe dici poteſt, ſic Leg'* Ribuar' tit. Go. *Ut optimates Majores domus domeſtici Comites* Grafiones Cancellarii *vel quibuſlibet gradibus ſublimati in provincia* Ribuaria *in Judicio reſidentes munera ad Judicium pervertendum non recipiant; Hos etiam Regi Judicanti adſediſſe probat* Marculfus *ipſe* lib. 4. *dum inter Miniſtros & officiales qui Regi adſiderent domeſticos recenſet.*

Neither were the Writs of Summons to the Peers and Lords Spiritual and Temporal, in that fatal 49*th.* Year of the Raign of that unfortunate Prince King *Henry* the *Third*, though many Ages before Accuſtomed to be Summoned to their Soveraign's great Councells, framed upon any better Foundation than Force, and Partiality, when a Rebellious part of the Baronage of *England* had, by the Succeſs of their Rebellion, made him, and the Prince his Son, his Brother *Richard* Earl of *Cornewall*, King of the *Romans*, and his Son, with many of the Loyal Baronage, and other his faithful Subjects, Priſoners on purpoſe to create an *Oligarchy* in *Symon de Montfort* Earl of *Leiceſter*, *Gilbert de Clare* Earl

of

of *Glouceſter*, and ſome few others of their triumphant and ſeduced Party, and fix in themſelves a *Conſervatorſhip*, and domineering Power over the reſt of the Peers, and Nobility, and their fellow Subjects, eſpecially the Commons, left in a full aſſurance of Slavery, and hopeleſs of any thing more than to be Aſſiſtant to the everlaſting Ambition and variable Deſigns of others.

SECT. XIV.

That thoſe enforced Writs of Summons to the Lords Spiritual and Temporal, accompanied with that then newly deviſed Engine or Writ to elect Knights, Citizens, and Burgeſſes to be preſent in Parliament, were not in the uſual and accuſtomed Form, for the Summoning the Lords Spirituall and Temporal to the Parliament.

Selden tit. honor 708. & in dors clauſ. 6. *Johannis* m. 3.

FOR the eminently Learned *Selden* hath informed Us, That the moſt ancient Writ of Summons that he hath ſeen, was no Elder than the 6*th*. Year of the Raign of King *John*, directed to the Biſhop of *Salisbury*, Commanding him to come, and Summon all the Abbots, and Convential Priors in his Dioceſs to do the like, *viz.*

Mandamus vobis rogantes quatenus omni occaſione & dilatione poſt poſitâ ſicut Nos & honorem Noſtrum diligitis ſitis ad nos apud London *die Dominicâ proximè ante Aſcenſionem Domini Nobiſcum tractaturi de magnis & arduis negotiis noſtris & communi Regni utilitate; Quin ſuper his quæ a Rege* Franciæ *per Nuntios Noſtros & ſuos Nobis mandata ſunt unde per Dei gratiam bonum ſperare veſtrum expedit habere concilium & aliorum Magnatum terræ noſtræ quos ad diem illum & locum fecimus convocari, vos etiam ex parte Noſtrâ & veſtrâ Abbates & Priores conventuales totius Dioceſis citari faciatis, ut concilio prædicto interſint, ſicut diligunt Nos & communem Regni utilitatem.* T. *&c.*

The Roll that hath this Writ hath no Note of Conſimile to the reſt of the Barons, as is uſual in other cloſe Rolls of Summons to Parliament; but it appears in the Body of it, that the reſt were Summoned, and that there was a Parliament in the ſame year.

Ro. claus. 6. *Johannis* m. 2. in dorſo.

And another cloſe Roll in the Raign of the ſame King, and in the ſame year hath a Writ in theſe words, *viz.*

Rex Henrico, *Mandavimus tibi quod in fide quam Nobis debes, ſicut Nos, & Corpus, & honorem noſtrum diligis omni occaſione & dilatione poſtpoſitis ſis ad Nos apud* Northampton *die dominica prox' ante* Pentecoſten *parat' cum equis, & armis, & aliis neceſſariis ad Movendum nobis cum Corpore noſtro, & ſtandum nobiſcum ad Minus per duos quadrag' ità quod infrà terminum illum à Nobis non recedas, ut te in perpetuum in grates Scire debeam.* T. R. *&c.*

Dors. clauſ. 28. H. 3. m. 13.

And out of a cloſe Roll of the 26*th*. Year of King *Henry* the *Third*, cites a Writ of Summons in theſe words.

Henricus, &c. *Reverendo in Chriſto Patri* Waltero Eboracenſi *Archiepiſcopo, Mandamus vobis quatenùs ſicut Nos & honorem noſtrum*

ſtrum pariter & veſtrum diligitis, & in fide quâ Nobis tenemini, omnibus aliis negotiis omiſſis ſitis ad Nos apud London *à die ſancti* Hillarii *in quindecim dies ad tractandum Nobiſcum unà cum cæteris Magnatibus noſtris quos ſimiliter fecimus convocari de arduis negotiis noſtris ſtatum noſtrum & Totius Regni noſtri ſpecialiter tangentibus, & hoc nullatenus omittatis.* T. *Meipſo apud* Windleſorum 14. *die* Decembris.

Subſcribed with *Eodem modo Scribitur omnibus Epiſcopis, Abbatibus, Comitibus, & Baronibus.*

And that the Firſt that he found accompanied with the other circumſtances of a Summons to Parliament (as well for the Commons as the Lords) is in the 49*th.* Year of the Reign of King *Henry* the *Third* in the Form before-mentioned (which by the Dates of the Writs were by Sir *William Dugdale* firſt of all Diſcovered, or taken notice of to be during the ſaid King's Impriſonment) by which he calls both the Earls and Barons to *Weſtminſter*. (no ſuch words as the Commons being called appearing either in the Exemplar, or Tranſcription of the former Writs, or in that which Mr. *Elſing* hath left unto the World.

Elſings ancient and modern manner of holding Parliaments in *England.* 7. and 9. Et in dors. 10. clauſ. 49. H. 3. in ſched.

In formâ prædictâ ſubſcribitur Abbatibus, Prioribus ſubſcriptis, &c. without any Chriſtian Names, or Additions formerly uſed.

Sub data apud Woodſtock 14. *die* Decembris.

In formâ prædictâ mandatum eſt Comitibus, & aliis Subſcriptis dat' apud Woodſtock, *viz. Comiti* Leiceſter, *Comiti* Glou', *Comiti* Norff', *& Mareſcal'* Angliæ, *Comiti* Oxon', *Comiti* Derby, Rogero *de ſancto* Johannis, Hugo *de* Spencer, *Juſticiar'* Angliæ, Nich' *de* Segrave, Johanni *de* Veſcy, Robert Baſſet, G' *de* Lucie, & Gilbert *de* Gaunt, of which the Earls of *Leiceſter, Glouceſter, Norfolk, Oxford,* and *Derby,* were notoriouſly known to be in open Armes, and Hoſtility againſt the King, the whole number of the Temporal Lords therein named, not amounting unto more than *Twenty-Three,* with a Blanck left for the names of other Earls and Barons, which have not been yet inſerted or filled up.

And all the other which were in that conſtrained Writ of Summons, particularly and expreſſly named, were no other than *H. de le Spencer Juſticiar' Angliæ, John Fitz John, Nicholaus de Segrave, John de Veſcy, Rafe Baſſet de Drayton, Henry de Haſtings, Geffery de Lucy, Robert de Roos, Adam de novo Mercato, Walter de Colvill,* and *Robert Baſſet de Sapcott*; thoſe which together with the then Biſhops of *London,* and *Worceſter, Symon de Montfort* Earl of *Leiceſter,* and Steward of *England, H. de Boun Juvenis, Peter de Monte forti, & S. de Monte forti Juvenes,*

Juvenes, Baldwin Wake, William le Blond, William Mareſcallus, Rafe de Gray, Will' Bardoff' Richard de Tany (or *Tony*) *Robert de Veteri Ponte*, made up the Number of the oppoſite Party to the King in the aforeſaid Reference to the King of *France*.

Mat. Paris. 41. H. 3. P. 1283. & *Selden* tit. honor. 716. & 719. dors ro. claus. 23. E. 1. dors. claus. 50. E. 3. part 2. m. 6. *Elſings* ancient and preſent manner of holding Parliaments. *Ca.* 2. *P.* 22. 23, and 24.

And Mr. *Selden* hath obſerved, That the Preambles ſometimes ſo varied, that ſome eminent Occaſions of the calling of the Parliament were inſerted in the Writs to the Spiritual Barons, that were not in thoſe to the Temporal; and oftentimes no more than a general and a ſhort Narrative of the Reſolution of having a Parliament, with much variation in the Writs of that nature, with many Differences of ſlighter Moment, ſometimes againſt making of Proxies, and at other times a Licence to make them, and ſometimes in all a Clauſe againſt coming attended with Armes; and ſaith, That until the middle of the Raign of King *Richard* the *Second*, when Dukes, Earles, and Barons, were created by Letters Patents of our Kings, that the names of the Barons to be Summoned to Parliament, were Written from the King's Mouth at his Direction and Command; and in that agreeth with Mr. *Elſing*, who ſaith it was *ad libitum Regis*, for ſurely none but the King can Summon a Parliament, and that is the Reaſon that *Henry* the *Fourth* having taken King *Richard* the *Second* his Leige Lord Priſoner, the *Twentieth* of *Auguſt*, in the 21ſt. Year of his Raign, did cauſe the Writ of Summons for the Parliament, wherein he obtained the Crown, to bear Date the *Nineteenth* day of the ſame Month, and the Warrant to be *per ipſum Regem, & Concilium*, and himſelf to be Summoned by the name of *Henry* Duke of *Lancaſter*.

And the Warrants have been divers, ſometimes *per breve de privato ſigillo*, but commonly *per ipſum Regem*, or *per ipſum Regem & Concilium*.

SECT.

SECT. XV.

That the Majores Barones, *or better ſort of the Tenants in* Capite, *Juſtly and Legally by ſome of our Ancient Kings and Princes, but not by any poſitive Law (that of the enforced Charter from King* John *at* Running Mede, *being not accounted to be ſuch a Law) were diſtinguiſhed and ſeparated from the* Minores, *or leſſer ſort of the Tenants in* Capite.

FOR it could be no deſign in the Framers or Contrivers of his Charter, to make any diſtinction betwixt the *Majores*, or *Minores Barones*, of the Kingdom; or to leave to Poſterity a definition of either of them; or a Rule for after Ages, for that would have unpolitickly very much diſturbed and diſtracted that rebellious Aſſembly at *Running Mede*, or could be likely to obtain any more thereby, as to their meeting in our Kings great Councels (the word Parliament being not then in uſe amongſt us) than to have a Common Councel ſhortly called to ſettle the manner of Aſſeſsment of Aides upon Knights Fees, and to that only end to Summon the Tenants in *Capite*, which were not all of that ſort, being not the *Majores* or *Magnates* then, and yet underſtood by our Nation to be the Barons long before, and ever ſince, at the good Will and Pleaſure of our Kings, uſually Called and Summoned by them to their Great Councels upon urgent Occaſions; the *Majores Barones* being to be there preſent to adviſe thereupon: Which, for after Aſſemblies of that nature, conſtantly to be holden, would have been very Numerous, Troubleſom, Chargeable, and Dangerous, if the Tenants *in Capite* had been *Threeſcore Thouſand*, as *Ordericus Vitalis* hath Recorded them, or but *Thirty Two Thouſand*, as our great *Selden* hath more probably eſtimated them: And although the Learned Sir *Henry Spelman* was enclined to believe, that the diſtinction betwixt the greater and leſſer Baronage, had its Foundation in that Charter; and the Learned *Cambden*, from a very good Authority as he thought, aſſerted, That King *Henry* the *Third*, *Poſt Magnas perturbationes, & enormes vexationes inter ipſum & Symonem* de Monte forti, *ex tanta multitudine quæ ſeditioſa & turbulenta fuit Optimates quoſque reſcripto ad Comitia evocaverit*; yet Mr. *Selden* ſaith, That in all that he hath met with ſince the making of that Charter, he found no mention of any Intereſt which thoſe other Tenants in Chief *eo nomine* had in our Kings Great Councels or Parliaments, who doubtleſs were the

Ordericus Vitalis hiſt. Eccleſiaſt. lib. 4. p. 523. b.

Selden tit. honor 692. 693.

Spelmans Gloſſar' 452.

Cambden Brit. 122.

Selden tit. honor 713.

the Perſons that were excluded from it, and was perſwaded to give little Credit unto the Author cited by Mr. *Cambden*, but rather to conclude, That not long after that grand Charter of King *John* (like enough in that time) ſome Law was made, that induced the utter Excluſion of all Tenants in Chief from Parliaments; beſides the Ancient and Great Barons, and Baronies (which *Mathew Paris* ſaith, King *Henry* the *Third* reckoned to be *Two Hundred* and *Fifty*) and ſuch other as the King ſhould in like ſort Summon; and that there were Barons by Writ, as well as Barons by Tenure, cites a Teſtimony out of *Mathew Paris*, who ſpeaking of King *Henry* the *Third*, ſaith, That in the *Twenty Nineth* Year of his Raign, *Rex edicto publicè propoſito de ſubmonitione generaliter factâ fecit certificari per totam* Angliam, *ut quilibet* Baro *tenens ex Rege in Capite haberet prompta & parata Regali præcepto omnia ſervitia Militaria quæ ei debentur tam Epiſcopi &* Abbates *quàm Laici Barones*, Barons holding *in Capite*, as if ſome held not ſo, which muſt be ſuch as were Barons by Writ only.

Selden tit. honor 713.

Mathew Paris 81. edict. *London.*

The Tenants in Chief being by thoſe Differences diſtinguiſhed in their Titles, Poſſeſſions, and Reliefs, were ſo much leſs in Honor, than the greater Barons, who had ſeveral Writs at every Summons, and all the ancient Circumſtances of the Title of Baron ſtill remaining to them: It was the leſs difficult for thoſe greater Barons to Exclude the reſt wholly at length from having any Intereſt in the Parliaments of that Time, under the name of Tenants in Chief only.

And although in ſomewhat a different, and much inferiour manner to the *Majores Barones*, their Number, Greatneſs of Provinces and Eſtates, or near Alliance in Blood unto the Crown, is not much unlike the diſtinction made in *France* of the *Douze Pairs*, not excluſively to the other Baronage; which our *Mathew Paris*, and their own Authors will Evidence, were not only before, but are there to this day continued as a Degree of Honor, different from the *Barones Minores*, or the *Vulgus* or Common People, much inferior to that leſſer Baronage; yet the Annalls and Records of *France*, are not yet accorded of the preciſe time of the firſt Inſtitution of their *twelve Pairs*, lately Augmented to a much greater number.

Du Freſne in verbo Pares.

For *Du Freſne* is of Opinion, That in the Year 1179. which was the 25*th*. Year of the Raign of our King *Henry* the *Second*, there was no certain number of the Peers of *France*, *Narrat quippe* Rogerus Hovedenus Willielmum *Archiepiſcopum* Remen-

Remenſem eundem Regem unxiſſe Remis, miniſtrantibus ei in illo officio Willielmo Turonenſi & Biturocenſi & Senonenſi Archiepiſcopis, & fere omnibus Epiſcopis regni Henricum vero Regem Angliæ de jure ducatus Normanniæ coronam auream qua coronandus erat Philippus & Philippum Comitem Flandriæ gladium regni prætuliſſe, alios vero Duces, Comites & Barones præiviſſe & Secutos diverſos diverſis deputatos officiis (according to the long before uſed cuſtom of the Engliſh at the Coronation of their Kings) where divers of the greateſt *Officiary* and Nobility; as the Conſtable, Marſhall, Steward, and Great Chamberlain of *England, cum multis aliis*, One Nation learning of Another their Cuſtoms and Uſages, did conceive it to be an Honour fixt in their Families by Grand Serjeanty: *Et Rigordus eandem Coronationem peractam ait, aſtante Henrico Rege Angliæ & ex una parte coronam ſuper caput Regis Franciæ ex debita ſubjectione humiliter portante cum omnibus Archiepiſcopis, Epiſcopis, cæteriſq; regni principibus, ex quibus patet*, ſaith *Du Freſne*, *cæteros Epiſcopos qui pro Franciæ Paribus habentur, ea quæ hodie non aſſecutos miniſteria in ea Solemnitate.*

Proinde haud improbanda forte ſententia qui Parium Francicorum duodecim virorum definitum fuiſſe tradunt a S. Ludovico Rege quos inter eſt Johannes a Leidis lib. 22. ca. 7. itaque Sanctus Ludovicus Rex Franciæ ordinavit in regno Franciæ conſtituens inde collegium ſeu capitulum qui haberent ardua regni tractare, Scilicet 6 Duces & 6 Comites, & de Ducibus ſunt tres Epiſcopi, & de Comitibus ſunt etiam tres Epiſcopi.

And *L'Oiſeau* a Learned *French-man* giveth us an account of the Erection of the 12 Pairs of *France* in theſe Words, *ils furent choiſis ſelon la plus vray ſemblable opinion par Loys le Jeune du tout a la maniere des anciens Pairs de fief dont parlent les livres de fieffs et ont auſſi toutes les meſmes charges qu' eux a Scavoir d' aſſiſter le Roy en Son inveſtiture qui eſt ſon ſacre & coronement et de juger avec luiles differens des vaſſaux du Royame & ont les uns & les autres eſte ainſi appellez non pas pour eſtre agaux a leur ſeigneur mais pour eſtre Pairs & compagnons entr' eux ſeulement come l' explique un ancien Arreſt donne contre le Comte de Flandres au Parlement de Touſſaints 1295. rapporte par du Tillet. Ce fut pourtant un trait non de ieune, mais de ſage Roy lors que les Duc's & Com'tes de France avoient uſurpe le ſouverainete preſque entiere pour empeſcher qu' ils ne ſe ſeparaſſent tout a faict du Royaume d'en choiſir douze des plus mauvais les faire Officiers principaux, & commemembres inſeperables de la couronne a fin de les in-*

L'Oiſeau traite des Seigneuries cap. 5. p. 100.

gager par un intereſt particulier a la maintenir en ſon integrite meſmea empeſcher la des union des autres moindres qu' eux moyen que les Allemans ont auſſi tenu pour la conſervation de l' Empire par la creation des 7 *Electeurs.* (Which in proceſs of Time being long afterwards done by the *Aurea Bulla*, might not improbably have been inſtituted in ſome imitation of the *douze Pairs du France.*

And in *Anno* 1226. being the 30*th* year of the Reign of our *Henry* the 3*d*, the Earl of *Flanders*, and the Earl of *Boloigne* complaining that their Lands had been Seized and taken away, without the judgement of the 12 *Peers*, as by the Laws of *France*, they, as was alledged, ought; and when thoſe their greivances were redreſſed, they would attend at the Coronation; howſoever *Blanch* the Queen Regent, although the Duke of *Burgundy*, Earl of *Champaigne*, St *Paul Britain & fere omnes nobiles ad Coronam* (who may probably be underſtood ſnch as more particularly did hold by ſome *grand Serjeanties* to be performed at the Inauguration of their Kings) did by the Counſell of the Popes Legat, cauſe her Son *Lewis* to be Crowned without them.

Mat. *Paris* & *Favin* in his Theatre of honour. 181.

And when *St. Lewis.* the *French* King ſo called, whoſe Saintſhip in our Barons wars, had coſt *England* very dear, could in a ſeeming friendly Entertainment of our King *Henry* the 3d at *Paris*, wiſh with an *O utinam duodecim Pares Franciæ* had not done as they did in the forfeiture of *Normandy*, *& mihi conſentirent certe amica eſſemus indiſſolubiles*, but did at the ſame time adde, *& Baronagium*, and might have underſtood that that judgment againſt King *John* denyed by the *Engliſh* to have any juſtice in it, was not given by the 12 *Peers* againſt him as Duke of *Normandy*, for he was one of the principall of them himſelf, and was neither preſent or heard.

But whither that or their Offices to be performed at the Coronation of their Kings, gave the riſe or ground of that eſpeciall Peerage, the time when being ſomething uncertain,

Du Freſne in verbo Pares.

for *Du Freſne* doubting of it, declareth, that *quando* the Pairs of *France redacti fuerunt ad duodenarium numerum non omnino conſtat inter Scriptores ſane in confeſſo eſſe debat ab ipſo feudorum origine vaſſallorum Coronæ Franciæ controverſias a Paribus ſuis fuiſſe judicatas &* Anno. 1216. which was the 17*th* year of the Raign of our King *John*, *numerus Parium Franciæ non fuit definitus.*

Idem Tom. 3. 143.

And that diſtinction of the *Majores Barones & Minores Barones*, mentioned in King *Johns* extorted Charter at *Runingmede*

ingmede, whether then newly gained, as the learned Sir *Henry Spelman* believed, or only put in practice by *Edward* the firſt, a better defender of his Crown-Rights, then his Father or Grandfather, as others have with good probability conceived, may receive the better entertainment amongſt all the friends and well-willers of truth and reaſon, when it ſhall be conſidered how much it correſponds with that more antient cuſtome amongſt the *Hebrews* in a government, ordained by God himſelf, where the Princes of the 12. Tribes of *Iſraell*, *Summo Magiſtratui aſſidebant*, *Nobilium ordo pro ſeminario munerum præcipuorum quia*, ſaith *Beſoldus*, *liberaliter educati ſapientiores eſſe cenſentur*, and therefore *Comites* or *Earls*, being antiently in the Reign of *Charlemaine* (which was in *Anno Chriſti* 806. if not long before, *Perfecti Provinciarum & qui Provincias adminiſtrabant*, were with Dukes alſo and Barons, not only in *France*, about thoſe times, but in *Germany* alſo (whereas *Bodin* ſaith, they did ſo *ſpirare libertatem*, as they made it, on Earth to be the utmoſt of their wiſhes and deſigns to obtain as much as they could of it) inſerted, and put into the *Matricula* or Roll of the States of the Empire, *Et in Comitiis jus ſuffragii habuerunt*, and *Arumæus* as well as many other authentick Authors, are of opinion that it was *pars libertatis*, a great part of the peoples liberty, and for their good, that *deliberatio ordinum concilio et authoritate quorum periculo res agitur ſuſcipitur*; *Et qui apud principem et jura Comitiorum una & perpetua privativa eſt mediata ſubjectio qua qui infectus eſt, nec Comitiorum particeps eſſe poteſt*, it being a Rule or Law in ſuch Aſſemblies, that they that ſit there, or are to have voice or ſuffrage therein, were to hold immediately of the Empire, and the reaſon of the firſt inſtitution of the *Parliament* of *France*, compoſed of the ancient Nobility by the ancient Kings of *France*, & *Pepyn*, was, as (*Paſquier* that learned King Advocate of *France* obſerveth) *inpartem ſolicitudinis*, to aſſiſt their Kings in the better management of their Government, who did thereby *communicate les affaires publiques a leurs premier & grandes Seigneurs come ſi avec la Monarchie ils euſſent entre meſler l' ordre d' une Ariſtocratie & gouvernement de pluſieurs perſonages d' honneur & ne ſe mettre en haine des grands ſeigneurs &* Potentats, and not draw upon them the envy of their great and mighty men. *Et eſtans les grands Seigneurs ainſi lors uni ſe compoſa un corps general de toutes les princes & gouverneurs par l' adois deſquels ſe vinderoint non ſeslement les differents qui ſe preſenteroient entre le Roy & eux, mais entre le Roy & ſes Subjects*; And the great Lords being

Sir Richard Bakers Chronicle.

Numbers 11. Joſhua. 23. Jeremiah. 26.

Bodin. Beſoldus de Comitibus imperii. 117. Arumæus de Comitiis 7 & 223.

Paſquier des Recherches, *li.* 2. 72. 74, & 76.

being ſo united, compoſed and made one generall body of all the Princes and Governours of Provinces, by whoſe advice and councell, not only the differences which ſhould happen between the King and them, but betwixt his Subjects, and were to be in extraordinary concernments of the Kingdom determined *Et eſtoit l' uſance ; de antiens Roys telle qu'es lieux ou la neceſſite les ſummomot ſe uvidoient ordinairement les affaires par aſſemblees generals des Barons* ; and accordingly by the direction of right reaſon, or of that or the more Ancient government of the *Greeks*, in their great Councel of *Amphiction*, or of the *Romans* in their Empire ; where *in ſuis conſtitutionibus prohibitum fuit ne portæ dignitatis vilibus perſonis paterent quas ipſa remana reſpublica plebeis cum ſui deſtructione aperuit ut in ipſos Senatores imo tandem Conſules inſurgerent particularia Jura (plebiſcita) pro plebe formarent tandem ſibi ſummam poteſtatem ſub tribintia authoritate arrogarent & factionibus in contrarium motis rempublicam perderent* ; and our *Saxon* Kings could neither think they wronged themſelves or their ſubjects, to call to their Aſſemblies and great Councells, for the redreſſing of Grievances and Enacting of Laws, their *regni Scientiſſimos & Aldermannos*, Governours of Provinces, ſo as they which have had any Converſation with *Tyraquel & Nolden de nobilitate, Caſſanæi catalogus gloriæ mundi, L'Oyſeau* in his books *de Seigneuries & de droit des offices, Du Freſne's gloſſar*, our *Seldens* titles of Honour, Sr *John Fernes* glory of generoſity,& Sr *Henry Spelmans* gloſſary,may find,as *L'Oyſeau* ſaith, that there are *ſimple Nobles*,& *hautes grands & moindres ſeigneurs publicquees et privees*, And they may looſe more credit then they are likely to get in making ſuch a ſtir to metamorphoſe P*igmies* into *Gyants*, and *Gyants* into P*igmies*, & procure their Proſelites or fellow-Undertakers, if they can, to believe that all the world hath been ſince the creation therof, greatly miſtaken beſide themſelves. Howſoever if that will not accomodate their levelling humors and deſigns, they will make an eſſay to entice others to invade their Sovereigns Rights and Authority, although they themſelves ſhould miſs of their mark or aim, intended by putting the *Majores Barones* in mind, that they have a co-ordinate or compulſive power in their Kings great Councells, more then deliberative or ſubordinately Judiciall, when there will be evidence enough againſt it, and the Parliament-Rolls and Records, will (if well obſerved) afford enſuing plentifull proofs and inſtances thereof.

Livy. Feneſtella & alii Romanæ gentis Scriptores.

Principes Comites & Barones Imperii alique ordines non tantum

tantum minora cum provinciis et territoriis ſibi in feudum datis ſed et ex majoribus illis quæ re haud Innania capiunt, as our *William* the *Conqueror* did in his Grant of the Earldome of *Cheſter tenend' Ita libere per gladium ut* Rex *tenet Angliam per gladium*, and that Earl and his heirs had diverſe Barrons under him of their own Creation. And one of the ſaid Earls granted the Earldom of *Lincoln* to his Siſter *Hawiſa* and her heirs, the Biſhoprick of *Durham* as a County *Palatine* aver Juſtice *haute & Baſſe* ſubordinate to the King; and in like manner was the Dutchy of *Lancaſter* granted by our King *Edward* the 3. §. 10.

Incorporales res apud omnes quoque gentes in feudum dari receptum et Jura appellantur hæc res Immobilium Jure cenſentur arg. l. 2. de ſervis idque plenius & planuis Intelligi poteſt. ſect. proced. *n.* 4. *&* 5. *Similiter venatio quoque expreſſe in feudum dari poteſt* (as our free-warren) *& tunc licet feudus in venatione non conſiſtat id eſt propter eam non habeatur venari poteſt vaſallus & quod teperit ipſius erit*, l. 9. *ſect.* 5. l. 62. F. *de uſufr. Succeſſio etiam alia ex teſtamento alia ab Inteſtato liberis deficientibus e latere conjuncti veniunt*, whence proceeded the power of the Tenant *in Capite* granted King *Henry* the 8. by Act of Parliament, to diſpoſe of 2 parts of his lands, reſerving a 3 part to the Heir and Adminiſtrations *de bonis Inteſtati*, were anciently (as *Mr Selden* ſaith) granted by our Kings or Lords of Manors Derivatively from them, 13. E. 1. *Quia Emptores terr.* the ſtatute. 1. E. 1. compelling men of 20 *l. per Annum*, to take the honour of the Knighthood, 17. E. 2. *de homagio faciendo, cum multis aliis.*

Sext. 6. p. 43.

32. H. 8i. Seldans Ms.

Seldans Ms.

And thoſe together with the before-mentioned *Feudall* Laws have been ſo fundamentall to our Laws and Cuſtoms of *England*, and which hath been called our Common Law, as it hath been rightly ſaid to be *velut oſſa Carnibus*, and ſo Incorporate in the body thereof, as it runneth like the life-blood, through the veins, arteries, and every part thereof, circulating to the heart the *primo vivens & ultimo moriens* of our heretofore, for many ages paſt, in our very ancient body-politick and Monarchick, atteſted and every where plainly and viſibly to be met with, ſeen, and underſtood, not only in and by our *Glanvill*, *Bracton*, *Britton*, and *Fleta*, together with our Annalls, Hiſtorians, and Records; the latter of which as unto matter of fact do never lye or ſpeak falſe; but is and hath been written, ſaid and practiſed, by, in, and amongſt the moſt of *Europæan* Nations of *Germany*, *France*, and *Spain*, if we reade and conſider well the books of

their learned Lawyers, when too many of our now effaſſinated nation, will not take the pains to look into former ages, or if at all, beyond our Inexpiated & late Rebellious Age, beginning at the year 1641. but ſcorn at *Solomons* large, Juſt, and Well-deſerved Commendations of Wiſdom; and eſteem the Prophet *Jeremy*, inſpired by God to be no other in his Councel or Advice, *State Supervias antiquas & inquire veritatem*, then a *fopp* or a grave thinking Coxcomb, and to be told to his face, as the Prophet *Jeremy* was, *ſay what thou wilt, we will not hear thee.* And it may be to our ſorrow be made an Addition to our heretofore ſeven wonders of *England*, that our *Littleton*, and Sir *Edward Coke* his adoring Commentator, ſhould draw the water, and have ſo little or no acquaintance with the Fountain, from whence it Came; and all our Year-books, and Law-Reports ſhould allow of ſo many of our Feudall Laws, and not cite, or quote, or tell us from whence their Originall came in: Inſomuch as *Littleton* as Sir *Edward Coke* relateth, ſpeaketh of the Kings *Prerogative* but in 2 places in all his book, viz. §. 125. 128. and in both places ſaith, it is by the Law of *England*, And Sr *Edward Coke* that gave in ſome of his books, that good and wholeſome advice, *petere fontes & non Sectari Rivules*, ſhould not (as he fondly did) have built Altars,& Sacrificed his otherwiſe to be well eſteemed abilities, to the reaſonleſs and notoriouſly falſe and vain figments of his ſo much adored *modus tenendi Parliamentum*, and the *mirrour* of *Juſtice*, and it can be no leſs then a marvail, that ſo learned a Councell at Law and State, as that great and Excellent Queeu *Elizabeth* was ſo bleſt with, ſhould permit her to afflict and torment her mind, in the taking away the life of her Couſin *Mary* Queen of *Scotland* for Treaſon, who had fled unto her for protection, againſt the perſecution of her Rebellious Subjects, who had driven her out of her own Kingdom; and was by ſome Ill-affected *Engliſh* made uſe of in ſome of their plots and Conſpiracies, which were then made or Contrived, by the advantage of her being here, againſt their Sovereign and her Royall Government; upon a deſigned Marriage betwixt her and the Duke of *Norfolk*, and to endure the menaces and threatnings of ſome forreign Kings and Princes her Allies, to avenge her death as a Common Concernment, (which his now Majeſtie, and his bleſſed Father, the Royall Martyr for his people, could not in all their many diſtreſſes find any amongſt their great Allies and kindred, that would do any thing more then to make their own unjuſt advantages by an Early Complying

plying with their Adverſaries) when the Juſtice of that her unwilling action in the Silence of our beſt and moſt learned Annaliſts and Hiſtorians, (who probably might in that and other matters of our Laws, think our *Feudall* Laws to be as unneceſſary to be proclaimed in *England*, as that there is a God, when every one ſhould believe it) might have eaſily proved & demonſtrated, the ſentence & condemnation of that unfortunate Queen being a *Feudatory* of our Qu. *Elizabeth*, & holding her Kingdom of *Scotl.* of her by ancient Tenure *in Capite*, homage & fealty, of & under her Crown of *Engl.* to have been agreeable unto thoſe Laws, although very unhappy unto the neceſſity of the one in the cauſing, and the other in her Suffring under it: & that ſo many of the Kings Conncel in the Law, that ſhould be more then the Carved Lyons about *Solomons* Throne, if they would but read the learned Books that have been written by Some Learned Gentlemen and Divines in the defence of the Kings Juſt Rights from the Bars of our Courts of Juſtice to the Bench, and from the Bench to the Bar, ſhould take ſo little notice of thoſe our fundamentall Laws, as only to entitle the Kings ancient Monarchick Rights to no better a Foundation and Originall, then that which the miſerable ſeduced and infatuated Common people ſhall be pleaſed to call Prerogative, as if it were ſome new word or term of Uſurpation or Tyranny, to be maligned, bawled, and bayted at, by the ſilly rabble, or as if the name of prerogative made every thing unjuſt that the King or his Miniſters have either done, or ſhall do, and ſome of the Cauſes (for reaſon amongſt many of the effaſcinations which like the Egiptian darkneſs hath almoſt Covered all our Land of *Egypt*) is a word too good for it, may be the miſcheivous quarrell betwixt our Common Lawyers and Civill or *Cæſarean* Lawyers, not reading or underſtanding ſo much as they ſhould do, the venerable mother of that which they would call the common Laws; when at the ſame time they can be content to make uſe of their Excellent Rules and Maximes in many of their Pleas, Arguments, Books, & Reports, as ſo many faithfull Guides and Directions.

And for further ſatisfaction unto, and as far as a demonſtration from what originall the moſt of our fundamentall & Principall Laws *tanquam a fonte puriſſimo*, the pureſt fouutain of right reaſon, have preceeded, been fixt and continued amongſt us, the particulars of the feudall Laws following, not before mentioned will (if rightly conſidered) abundantly Illuſtrate and Declare, when the *Feudiſts* or *Feudall* Lawyers may aſſure us, that the *Feudall* Laws being as a *Jus gentium*

of

all the Northern Nation of *Europe*, from or out of which *England*, *Scotland* and *Ireland*, with their adjacent Iſles and Territories are not, or ever yet were to be excluded.

Feltman de Faudis.

Legates mittere ad alios principes vel repub. arg. 2. l. 2. F. de Juriſd. funct. d. c. quid Culpatur.

Arrogationi auctoritatem dare. l. 2. F. de adopt. ſect. c. 1. (as our K. *Stephen* did K. *Henry* the 2.) or give licence to adopt.

Bona Damnatorum ob perduellionem aliudve Crimen ex quo hodie publicatio eorum ſit Authen. bona damnat C. de bon. preſcript. Nomos Carol. 218.

Angariæ & Parangariæ id eſt præſtationes operarum hominum equorumque currum nec non navium quæ ad uſum publicum ruſticis & ſubjectis Imperantur Germanis frohn dienſten.

Extraordinatio Collatio nunc Contributio. Decime ex Carbonum Lapidiumque fodinis. Salinarum reditus omnis F. 56. & A. B. d. tit 9. Fodrum pro exercitu principis. Avergaria ſive hoſpitatu militum & Aulicorum. Condicere Comitia Ordinum provincialium.

Which together with our Licences & pardons of Alienation, and Fines paid for the neglect thereof, Court-Leet ann Baron, Ancient demeſne, Free and Copyholders, and Fines certain ot uncertain, at the will of the Lord, Preſcription of ancient Cuſtome and Uſage not *mala in ſe*, *villani Bordarii* manucaption *ſatis datio* or Baile, Fribergh Tithings, Sheriffs Turnes or County-Courts, Hundred-Courts, and our *Communia Concilia* or *Parliaments*, upon Urgent and Speciall occaſions, concerning the defence of the Kingdom, and Church of *England*, and the advice of the Lords Spiritual & Temporal to be had therein. Wardſhips, Marriage, Advowſons, Patronage of Churches, Licenſe of Widdows of Tenants *in Capite*, to Marry, Seizures *Buſter les maines*, Liveries or Inveſtitures, *primer ſeizin*; forfeiture of portion upon marriage tendered and refuſed, reſpite of homage, Priority in Suing for debts *Ann. Diem & Vaſtum.* Power to amend, wave, or change his Demurrer, to Imploy Coroners, Eſcheators, and Feedaries; Iſſues *aut diem clauſit extremum* ſtay other mens actions with a *Rege Inconſulto*; Kings ſilver or money to be paid *pro Licentia Concordandi*, Writs of *per que Servitia ceſſavit per Biennium de Coronatore eligendo de advocatione*, and the aſſeſſments of Eſcuage *quare impedit & de viridario eligendo* in Parliament. Writs of *Conge de Eſlire Eveſque*, Writs of *Recordare* or *Accedas ad Curiam*, Writs of *prohibition diſtringas de Excommunicato Capiendo*; our Juries or Tryalls in matters of Controverſies

troverſies *per pares*, our Writs *de Odio & Atia ne injuſte vexes*, Writs of *Novell Diſſeiſiu*, or of Entry and *Rediſſeiſin* or Triall by Battell, or *Judicium Dei fire deal* or *Ordial*, Writts *de Nativo habendo Certiorari de Proprietate probanda cum multis aliis*, mentioned in that authentique book of our Laws called the *Regiſter* of Writs; and even almoſt the whole frame and Context of our Laws do (beſides the Laws and Statutes made by our Kings aud Princes, and the reaſonable Cuſtomes and Uſages of the People, indulged or allowed by them) plainly bear and declare the *Idea*, *Effigies*, and lively Portraict of the *Feudall* Laws Planted and eſtabliſhed as they ought to be in this our heretofore more happy Iſlands; diſtinguiſhing Eſtates in Lands granted *inter feudum nobile & plebeium*: From the former of which, our Nobility and Biſhops have derived their Privileges of Freedom from Common Proceſs of Arreſt, and even the widdows of the Nobility, together with the precedency of the Sons and Daughters of them; And our Kings have enjoyed the privilege of protecting the perſons of their ſervants from perſonall arreſts, which they may certainly as Juſtly and lawfully do, as the members of the houſe of Commons, and their Servants; And that of the Houſe of Peers in Parliament do and have none in the Times of Parliament, and it ſhould not be unobſerved or unknown by or unto our later Lawyers of *England*, that the ancient and uſuall forms of our Declarations and Pleadings at Law, have been and are, that the Plaintiffs or Defendeuts were or are Seized *in dominico ſuo* ut de *feodo Simplici aut Talliato*, and that our Laws have or had *ab antiquiſſimis Seculis*, or ages, a great mixture of the Feudal Laws, which the people eſteemed to be a part of their happineſs, untill this our laſt mad age of Rebellion, Faction and Sedition, had taught our *Fngliſh* Copyholders to eſteem their Tenures to be a *Norman* Slavery, wherein the Charity and good-will of their Landlords have continued to their generations, yet notwithſtanding have by length of time converted their kindneſſes into a villanous Cuſtome of Ingratitude. And as the Civill Law had before done *inter patroues et Clientes*, the *patritii* or Nobility eſteemed it to be a Diſparagement to intermarry with the vulgar, who could not for a long time, and without much Strugling, be admitted into the Magiſtracy; (as *Livy* and other good *Roman* Hiſtorians have aſsured us) but were as a Seperate part of the people, glad to be content with their *Tribuni plebis* to Intercede with the Senate, to make good and wholſome Laws, *Livy.*

or abate the rigour or Severity of any of them; ſo far were they from ambition or any deſigns of Intermedling above their Incapacitated Spheres, or Incroaching upon the Kingly Government; as if *Simon Montford*, and his Fellow-Rebells, had by force put upon King *Henry* the 3d. in the 49*th*, year of his Reign, taught them the way unto it, not as he did, by force, but by degrees and ſly Inſinnuations, working upon the Indulgence or neceſſities of their princes, but might have tarryed long enough, and beyond the longeſt period of time, before our Feudal Laws would have given them ſo much as a leave or licence to attempt it.

However if that will not do, thoſe Novilliſts, or hatchers of new & unwarrantable doctrines, will to work again, & limbeck their Fancies, to vent the only Vapours of ſuch imaginations, or what can be Extracted as ſome *Elixir Proprietatis*, *Elixir Vitæ*, or *Salutis*, to be purchaſed at their own & others coſtly enough rates and prices, ſo as they may be inſtrumentall and ſubſervient to their Wicked, and Seditious Deſigns, of Subverting the Monarchy, and Deluding the People. And their men of more Faction then Wiſdom, Law, Right, Reaſon, or Evidence.

SECT. XVI.

That the General Councels or Courts mentioned before the Rebellious meeting of ſome of the Engliſh Baronage, & the conſtraint put upon King John *at* Running Mede, *or before the* 49. *of* H. 3. *were not the* Magna Conſilia, *or* Generale conſilium, *Colloquium, or* Communia Conſilia *now called Parliaments, (wherein ſome of the Commons, as Tenants* in capito, *were admitted) but only truly and properly* Curiæ Militum, *a Court Summoning thoſe that hold of the King in* Capite, *to acknowledge, record and perform their ſervices, do their homage, and pay their reliefs, &c. and the writ of Summons, mentioned in the cloſe Rolis of the* 15th, *year of the Reign of* K. John, *was not then for the ſummoning of a great Councell, or Parliament, but for other purpoſes,* viz. *Military Aids and Offices.*

WHich withall their Strains, Conjectures, or Alchimy of abuſed Wit, will never be able to make the Writ, which Mr *Selden* found in the cloſe Role of the 15*th*, year of the Reign of King *John*, to be any Patern, or to have any reſemblance

ſemblance with the Writs of Summons, framed by *Simon Montfort*, and his rebell-party, in the time of the Impriſonment of King *Henry* the 3d, in the 49th, year of his Reign, having no other then theſe words, viz. *Rex vit. Oxon, precipimus tibi, quod omnes milites ballivæ tuæ, qui Summoniti fuerunt, eſſe apud Oxon ad nos a die omnium Sanctorum in quindecim dies, venire facias cum armis ſuis, corpora vero Baronum ſine armis ſimiliter, Et quatuor diſcretos milites de Comitatu tuo illuc venire facias ad nos, ad eundem Terminum, ad loquendum nobiſcum de negotiis regni noſtri, & meipſo Weſtmonaſterium, 7. die Novembris*, and not the 15th as Mr. *Selden* hath miſ-recited the dates thereof.

Et eodem modo Scribitur omnibus vice Comitibus, Which writs, he ſaith, ſeemeth to be a Summons to Parliament at *Oxford*, by the Strangeſt Writ of Summons, and without example, that he had been, and was ever-willing to prove the diſtinction, betwixt the *Barones Majores & Minores*, to have its originall or foundation about that Time: Whereunto *pace tanti viri* I may not ſubſcribe, for that it is more likely to be but a military Summons, much of that roll being buſied in Writs of Summons of Array to the Ports and others againſt a feared approaching invaſion of the *French*, to whom the Pope had given the Kingdom of *England*, and ſo many Tenants in *Capite* would have made too great a number to appear in a Parliament or Great Councell, and have been much fitter for a Muſter, and to come with Arms was not Parliamentary, and there was nothing like a diſtinction in that Writ or Summons betwixt the *Majores* and *Minores Barones*, for they held in *Capite* alſo as all the other did, and the *quatuor milites* out of every County might all or ſome of them hold in *Capite*, and if it had been to a Parliament, the Barons would have had particular Writs of Summons directed unto them, and the Prælates alſo, who were uſually Summoned at the ſame time, and as other of the Baronage would have taken it ill to be driven to their Duties by *Sheriffs* Authorized by Writs of *Venire facias*, and *Samuel Daniell* much diſagreeing with *Mathew Paris* therein, gives the reaſon of thoſe Writs, and that intended great aſſembly to have been only the great care of King *John*, to gather all the Force and Strength he could to march with him to *Dover*, to reſiſt the *French*, and to that end having before Summoned all Earls, Barons, Knights, and who elſe could bear Arms, to be ready at *Dover* preſently upon *Eaſter*, furniſhed with Horſe, Armour, and all Military Proviſion to defend him, themſelves, and the Kingdom,

Ro. Claus. 15. *Jo. parte* 2 m. 7. in *dorſo*, not *parte*. 1. as in *Seldon* or his Printer hath miſquoted it.

Daniel in the Life of King *Joh.* 136 137. *Matt. Paris.* 234.

Spelmans Gloſſar. dom, againſt the intended invaſion under the penalty of *Culverage*, which was perpetuall Shame and Servitude.

Whereupon ſo great numbers came, as for want of Suſtenance, being returned home, he retained only ſome of the more able ſort, which amounted to the number of 60000. and ſome of the writs or Commiſſions of Array ſent to the Ports had a clauſe therein, *& unuſquiſque ſequatur Dominum ſuum, Et qui terram non habent & arma habere poſſint* (as *Mathew Paris* hath it) *illuc veniant ad capiendum ſolidatas Regis*, and the words *Corpora vero Baronum ſine armis*, in the writts of reſummons of the more ſpeciall part of the men formerly ſummoned, having nothing of the penalty of *Culverage*, might be well underſtood to be, that the Barons, who were not to be arrayed by Sheriffs amongſt Common Soldiers, were in ſuch a caſe of extremity to be deſired to be there *ſine armis* to encourage, and lead on thoſe that held of them.

And they with the *quatuor milites diſcretos*, were beſides *ad loquendum cum Rege*, which being to be without Burgeſſes, and not *ad faciendum & conſentiendum* to thoſe things which the King and his Councell of Prælates and Barons ſhould ordain, can arrive to no nearer a reſemblance, of the forced writts of the Elections of ſome of the Commons, to come to a Parliament in the 49th, year of the Reign of King *Henry* the 3d, then 4 Knights of every ſhire, without Burgeſſes, do unto 2. with as many Burgeſſes out of every City and Burrough, ſome Citys having a County appertaining unto it (but are not many) and ſending four, whereof 2 were to be for the Connty and 2 for the City, and as little reſembling in the buſineſs or matters for which they were to come, as *ad loquendum de negotiis regni cum Rege*, doth with *ad faciendum & conſentiendum* to ſuch things as the King and his Councell of Barons, Lords Spirituall, and Temporall, ſhould in Parliament adviſe, and ordain.

Ro. Claus. 2. H. 3. m. 9. in dorſo. In the firſt year of the Reign of King *Henry* the 3. when no Acts of Parliament are found to have been then made, that King directed his writ to the Sheriffs of *Devonſhire*, and unto all his Sheriffs of the Counties and Shires of *England*, *quod venire faciat uſque Oxon, A die Jovis prox. poſt nativitatem ſancti Johannis in tres Septimanas, Archiepiſcopes, Epiſcopes, Abbates, Priores, Barones, Com: omnes, milites, libere tenentes, & omnes alios qui ſervitium nobis debent, equis & Armis, cum fideli noſtro Will. Mariſt. & aliis Magnatibus de Conſilio noſtro, quæ eis præteperimus, & hoc, ſicut honorem ſuum & ſui Indempnitatem diligunt, nullatenus omittant,*

mittant, teſte Com. apud Glouc. And in a writ directed to the Sheriff of *Berks*, Commanded him, *quod venire fac. uſque Oxon. die Dominica prox. poſt feſtum ſancti Petri, ad vincula totum ſervitium, quod Archiepiſcopi, Epiſcopi, Abbates, & viri religioſi, Com. & Baron. & Omnes alii de Balliva tua quæcunque fuerint nobis debent; venire fac. illuc ad diem illum ſimiliter, omnes illos de Baliva tua, qui non ſunt homines præditorum, & per Catalla eorum & alia Jurati ſunt, promptos, & paratos ad eundum in ſervitium noſtrum, quæ eis præcepimus, quæ &c. T. apud Oxon.* So as it may, with ſome confidence, be aſſerted, that the Commons of *England*, otherwiſe then comprehended in the authority, Votes and Suffrages of the Nobility and Biſhops, had before the impriſonment of H. 3. as aforeſaid, no Summons by election or otherwiſe, to come unto the great Councels, or Parliaments of our Kings or Princes: Wherefore they muſt be more then a little confident, of their art in tentering other mens Judgments and Opinions, to affirm with any probability, that the Commons, or any elected number of them, either in the now mode of Election, or that which had its firſt creation in the impriſonment of King *Henry* the 3. otherwiſe then as he, or the former Kings did ſometimes uſe, as they pleaſed, to call ſome of the more Wiſe and Able of them for Advice or Information, as King *John* did *ad loquendum*, or as King *Henry* the 3*d.* in the 36*th*, Year of his Reign, did call the *Londoners* to *Weſtminſter*, about taking upon them the Croſs, and attending him in thoſe Wars, repreſenting in that particular only, their own Eſtates, or Qualities. Sam. Daniel, 167.

When in a Parliament holden by the Queen, and her Councell, in his abſence in *France*, in the 38*th*, year of his Reign, though *Mathew Paris*, and Mr *Daniel* have given us no intimation of a Parliament then holden, (wherein do not appear to have been any Commons or Houſe of Commons) the Lords gave an aid by themſelves, the Clergy doing the like, as is evidenced by the 2 following Records in theſe words, *viz.*

Rex dilecto & fideli ſuo Willielmo de Oddinggeſeles ſalutem, Cum Venerabilis pater B. Cantuarienſis Archiepiſcopus, Epiſcopi provinc. Cant. R. Com. Cornub. frater noſter, R. Com. Glouc. & alii Com. & Barones in quindena ſci. Hillarii jam prætoriti apud London, coram dilecta Regina noſtra & Conſilio noſtro Commorante in Anglia, conſtituti nobis promiſerunt liberaliter & benigni facere auxilium decens & perutile, viz. *quidam prelati in propriis perſonis, & quidam in pecunia; Comites vero & Barones in propriis perſonis ſuis, potenter con-* Claus. 38. H. 3. m. 14. dorſ.

tra Regem Caſtelliæ, qui terram noſtram Vaſconiæ in manu forti in quindena Paſche proxime futur. hoſtiliter eſt ingreſſurus, vos ex toto corde requirimus, quod ſicut ſupradicti Commites & Barones nobis promiſerunt quod erunt London A die Paſchæ prox. futur in tres ſeptimanas parati & bene muniti, ſine ulla dilatione verſus Vaſconiam ad nos perſonaliter movere; vos ad dictas diem et locum modo conſimili veniatis omni occaſione & dilatione poſtpoſitis, ad tendendum verſus porteſmum cum præfatis Magnatibus, ad transfretandi cum eiſdem ad nos in Vaſconiam, et hoc, in fide qua nobis tenemini, vobis firmiter injungimus, & ſicut honorem noſtrum, & indempnitatem corporis noſtri diligitis. T. per Reginam 5. die Febr.

Claus. 38. H 3. m. 13. Sbedula

Et mand. eſt per Henr. 3 *Regem in An. 38. regni ſui Archiepiſcopis et Epiſcopis totius Angliæ, quatenus cum feſtinatione omni convocent omnes Abbates et Priores ſuæ Dioceſis cujuſcunq; ſint ordinis, inducentes modis omnibus quod nobis in præſenti neceſſitate ſubveniant, manu largiflua, ne per defectum ipſorum vel aliorum corporis incurramus periculum, et terræ noſtræ jacturam, quod abſit, quia id verteretur in veſtrum ipſorum opprobium ſempiternum, ſic igitur veſtra vigilet diſcretio circa prædictum auxilium tam a vobis deferendum quam a ſubditis veſtris perquirendum, quod futuris temporibus vobis & ipſis ſimus non immerito obligati. Proviſo quod præfatum auxilium habeamus apud Weſtmonaſterium in quindenam Paſche proxime futuram ſine defectu, & hoc ſicut nos & honorem noſtrum, nec non & indempnitatem corporis noſtri diligitis, non omitatis. Dirigitur etiam litera iſta Archiepiſcopo Cantuar. cum hac clauſula, & quod ordinariam juriſdictionem exercetis vacante ſede in Epiſcopatu Linc. vos requirimus affectuoſe quatenus officiariis veſtris et Archiediacono ejuſdem Epiſcopatus ſcribatis, attente quod tempeſtive convocent omnes Abbates, & Priores ejuſdem Epiſcopatus, cujuſcunque ſine ordinis ad certos dies & locum abducentes eos nudis omnibus quod in hoc neceſſitate veſtræ concilium nobis faciant ſubventionem.*

And the failing to perform Military ſervices was afterwards by the Statutes of 6. E. 1. *ca.* 4. & 13. E. 1. *ca.* 21. made ſo Penall and fixed upon them, as after a *Ceſſavit per Biennium* in the performing of their ſervice, the King or Chief Lord might by writs ordained to be granted out of the Chancery, demand and proſecute to recover the ſame, and ſuch Tenants after Judgments had againſt them were to be for ever barred to demand, or enjoy the ſame, aud where either the King demands Eſcuage of his Tenants, or the mean Lords demands Eſcuage of their Tenants, it was to be aſſeſſed in Parliament,

Ro. Mariſt. Coke. 1. inſtitutes tit. Eſcuage. Sect. 102.

Parliament, and Proved or disproved by Certificate of the Marshall of the Kings Host, who is enabled thereunto by his Roll kept for that purpose. When in Parliament, the members of the house of Commons either holding Lands, in *Capite*, or of mesne Lords, by Knights Service, were not upon denying to grant Subsidies, or Aydes to the King, to forfeit or lose their lands, according to the aforesaid Acts of Parliament or otherwise.

And such kind of Courts for lands holden in *Capite* or by Knights service, should not by the most ordinary and mean Capacities, be understood to be one and the same with the great Court or Councell of Parliament, which many times by the Power and Authority of the King in that his Highest Court, corrects, and rectifies the defaults of the other.

Our high Courts of Parliament, having the Judges of the Land subordinate to their Prince, whether they have lands holden in *Capite* or no land, summoned by his writs to give their Councell and advice as to matters of Law, and the ancient customs of the Kingdom, wherein the King is attended with his great Ministers or Officers of State, as the Lord Chancellor, Treasurer, Privy Seal, great Chamberlain of *England*, Lord Steward, and Chamberlain of his houshold, and Lord Admirall, whether of the degree of Barronage, or holding of him *in Capite*, or not, with other great & solemn formalities becoming the honour and State thereof, with which that most honourable assembly is accompanied, greatly different from those lesser Courts or Councell of summoning and calling together, those that were only proper or obliged to actions of war, or to know how their services were performed, when our Parliaments being summoned to treat and advise of matters, concerning peace and the defence of the Church, and *de quibusdam arduis* only, and have sometimes no matters of war consulted thereon. Those military Councells, anciently summoned for service in war and defence, being in a very different form from Parliamentary Councells, as for further satisfaction may be manifested by the writs aforesaid.

And was no more then what every Earl and Baron had in their Courts and Jurisdidictions, when they summoned the Tenants, holding of them by Knights service, to their Courts of honour, or their honorary Possessions which were in our records frequently stiled, as the honors of *Eagle*, *Eye*, *Leicester*, *Hedingham*, *Penerel*, *Arundel*, &c. to which purpose they had their Escheators, Feodares, and Stewards to preside, or officiate therein, subordinate unto them, when they called their Tenants,

Tenants together either to ayd, ride, or go along with them in the wars and service of their Prince and Country, or to pay them their reliefs or ayds, *pairfile marier*, which the Law Interpreteth to be only the elder, or to make the eldest Son a Knight, or to do their homages, or pay for the respite of them, and to give the Lord to understand what alienations had been made of the lands holden of him, whereby to Entitle him, and those that did hold of him, to the benefit of the Statute of *Quia Emptores terrarum*. And altogether dissimular to that of the Parliament first begun, with those few of the Commons, which adventured to come unto it *in Anno*. 49. *H*. 3. when he was a Prisoner in the custody of *Montfert* Earl of *Leicester* a powerful rebell, discontinued and interrupted, as rebellious designs ought to be, after his release, untill King *Edw*. the 1. found it convenient to make use of that kind of writ of Summons to ballance the then swelling power of some of his over-Unweildy Baronage.

Statute *Quia Emptores terrarum*. 18. *E*. 1. cap. 1.

For in the former or those great Councells or Parliaments that were before the 49*th* Year of the Reign of King *H*. 3*d*. the Lords Spiritual and Temporall took upon them the care & charge of the Commons, as included in themselves, as their Subjects, they being by that then first kind of Writ only Elected to consent & yield Obedience to such things, as the Lords, not themselves, should ordain; for had it been (as it never was) otherwise, it would have been altogether ungatory and ridicule, to allow a power to the Commons to ordain, when they were impowred only to assent unto and obey, and cannot at all be understood to obey, and be subservient to that which themselves had Decreed, the Lords Spirituall and Temporall, untill the King had given unto what was advised by them, his Royall sanction and assent, being not at all obliged to any Obedience thereunto.

And untill the statute *de Tallagio non concedendo*, without the Assent of the Lords Spirituall and Temporall, and the Commons in Parliament Assembled, was by King *E*. 1. assented unto, had nothing to do in the granting of ayds and subsidies in Parliament Concurrently with the Lords Spirituall and Temporall, in the aforesaid Writ of 18. H. 3. is said to be for to supply their own necessities as well as the Kings.

But in the Military Courts, which were as aforesaid Summoned by King *John* or any other of our Kings before 49. *H*. 3. the Knights or those that held *in Capite*, or Knights-Service, that should fail to do their Services, was to forfeit their Lands

Lands ſo holden, and be in the Kings Mercy, or pay Eſcuage, which though it were to be aſſeſſed by Parliament, was not then Underſtood to be a Parliament Compoſed of an Houſe of Commons, but a Parliament after the Ancient way, conſiſting only of the Lords Spirituall and Temporall, the Kings Great Officers of State, Judges and Councell.

Which our Kings and their Councell both generall and ſpeciall, were not ignorant of, either as to its right uſe, or neceſſity, for publique good or preſervation, When King *John* being rightly informed, and in fear enough of an Invaſion intended by the King of *France*, his profeſt and known enemy, *et de omnibus quæ in tranſmarinis partibus agebatur edoctus*, did not only *inbreviare omnes naves, univerſis portubus totius Angliæ per brevia ſua ſed alias literas univerſis Vicecomitibus regni ſui miſit et direxit ſub hac forma, Johannes Dei gratia Rex Angliæ, &c. Summone per bonos Summonitores, omnes Barones, Milites, & omnes liberos homines, & ſervientes, vel quicunque ſint, vel de quocunque teneant, qui arma habere debent, vel arma habere poſſint, & qui homagium nobis, vel ligeantiam fecerunt, quod ſicut nos & ſeipſos & omnia ſua diligunt, ſint apud Doveram ad Inſtans clauſum Paſchæ, bene parati cum equis & armis, & cum toto poſſe ſuo, ad defendendum caput noſtrum, & capita ſua, & terram Angliæ, & quod nullus remaneat, qui arma portare poſſit, ſub nomine Culvertagii, & perpetuæ ſervitatis*, (when both in *England* and *France*, *nihil magis quam opprobrium ſignificavit*) *Et unuſquiſq; ſequatur dominum ſuum, & qui terram non habent & arma habere poſſint, illuc veniant ad capiendum ſolidatas noſtras, & tu omnem attractum victualium, & omnia mercata ballivarum tuarum venire facias, ut ſequantur Exercitum noſtrum, Ita quod nullum mercatum de ballivis tuis alibi teneatur, & tuipſe tunc ſis ibi cum predictis Summonitoribus, & ſcias, quod ſcire volumus quomodo venerint de ballivis tuis, & qui venerint, & qui non & videas quod tu Ita efforciate venias, cum equis & armis, & hæc Ita exequatis, ut inde ad corpus tuum nos capere debeamus, & tu inde habeas rotulum tuum, ad nos certificandum qui remanſerunt.* Whereupon, ſaith that Hiſtorian, *his ergo literis per Angliam divulgatis, convenerunt ad maritima in locis diverſis, homines diverſæ conditionis, et ætatis, ſed cum per dies pauces tantæ multitudini victus defuiſſet, remiſerunt ad propria, principes militiæ, ex inormi vulgo copioſam Multitudinem milites ſolummodo ſervientes, & liberos homines cum Baliſtariis & ſagittariis, juxta maritima retinentes omnibus, igitur congregati ad pugnam æſtimati ſunt in exercitu apud Barham dunam*

Mat. Par. 233. & 234.

inter milites electos & ſervientes ſtrenuos, & bene armatos ſexaginta millium virorum fortium, quibus ſi erga Regem Angliæ & defenſionem patriæ cor fuiſſet & anima una non fuiſſet princeps ſub cœlo contra quem regnum Angliæ ſe non defenderet.

Walſingham. Hiſt. Angli. E. 1. 69.

And it was no mervail to the people of *England*, who then had not learned to be affraid or make *Bug-bears* of publique good, or kick and winch at every thing that tended that way, when King *Edward* the firſt in the 24th, Year of his Reign, *Citari fecit omnes qui ſibi ſervitium debebant, cæteroſque omnes qui viginti librat. terræ & amplias tenebant, ut parati eſſent Londoniis in feſto ſancti Petri ad vincula cum equis & armis transfretaturi, cum eo & Regis ſtipendiis militaturi.*

And do very much differ from a Writ to Summon the Lords Spirituall and Temporall to Parliament, as *ad colloquium* or *conſulendum*, does from coming *parati cum equis & armis* which the Ancient cares and uſage of Parliaments, ſince that over-powerfull, and unhappy deſigns of ſome unruly Barons coming in Arms to the Parliament at *Oxford*, in the 42. Year of the Reign of King *Henry* the 3. and the ſad conſequences thereof taught our Kings to take heed of it ever after, by prohibiting the coming to Parliaments with Arms, and differs no leſs from the purpoſe, tenour or purport of the Writs, or Commiſſions to elect Knights of the Shires, Citizens and Burgeſſes, which had their firſt Originall and Commencement to come to our Parliaments, in *Anno.* 49. of King *Henry* the 3. when that King was a Priſoner to an Army of Rebells, & was not then untill after a long intervall of time in *Anno.* 22. *E.* 1. re-continued *ſub eadem forma*, which was in no other Tenour, or to any other purpoſe, then *ad faciendum & conſentiendum iis* to thoſe matters or things, which the King by the Councell and advice of the Peers *viz.* the Lords Spirituall and Temporall ſhonld ordain, and although there have been *ab ultima antiquitate* great Councells or Parliaments. Now, although not formerly, called Parliaments in this Nation or Kiugdome, yet they were not materially or formally the ſame, and if it could be proved that the members thereof conſiſted of 3. Eſtates, beſides the King their Sovereign Lord, before the 49th, Year of the Reign of King *Henry* the 3. which all our Parliament-Records do deny, yet they that were admitted or came under the Elections, illegally forced Writs and deſigns of *Montfort*, and his rebellious partners, by their then only newly contrived Houſe of Commons, can never entitle themſelves to the ſame *Origene*, Identity, purpoſe and uſage of our former Parliaments, before that

Houſe

Houſe of Commons in Parliament were admitted to conſent unto and do what the King by the advice of his Lords Spiritual and Temporall therein ſhould Ordain.

And there might be allways reaſon enough found, that there ſhould be a diſtinction betwixt the great Councells of Parliament, which were not only for extraordinary emergencies touching the defence of the Kingdom, and Church, and redreſs of grievances in Civill affairs and contingencies, and that which was for Military aids and ſervices, for ſaith our old and learned *Bracton*, *in Rege qui recte regit neceſſaria ſunt duo hæc, Arma videlicet & leges quibus utrumque tempus Bellorum & pacis recte poſſit gubernare, utrumque enim illorum alterius indiget auxilio, quo tam militaris res poſſit eſſe in tuto, quam ipſæ leges uſu Armorum, & præſidio poſſint eſſe ſervatæ, Si autem Arma defecerint contra hoſtes, rebelles, & indomitos ſic erit regnum indefenſum, ſic autem leges ſic exterminabitur Juſticia nec erit qui rectum faciet Judicium.* *Bracton* Li. 1. *de legibus & conſuetudinibus Anglicæ.*

And our Kings, whoſe Royal Progenitors had heretofore all the Lands in *England* holden of them *in Capite*, might, in their greater concernments, better deſerve to keep their ſeperate and particular Military Courts for aids and ſervices, then thoſe many of their Subjects do, that would be unwilling not to be allowed to do it in their own Eſtates, which had no other fountain or originall then the bounty and indulgence of their Kings and Princes; and *Bracton* hath inform'd us, that *quod ille homagium ſuum facere debet obtentu reverentia quam debet domino ſuo, adire debet dominum ſuum ubicunque inventus fuerit, in regno vel alibi, ſi poſſit commode adiri, Et non tenetur dominus quærere ſuum tenentem.*

And in the homage, *Secundum quoſdam*, there is to be *ſalva fide debita domino Regi & hæredibus ſuis. Et quod faciet ſervitium debitum domino ſuo, & hæredibus ſuis, & non debet homagium facere privatium, ſed in loco publico & communi, coram pluribus in Comitatu, Hundredo, vel Curia, ut ſi forte tenens per malitiam homagium vellet dedicere, poſſit dominus facilius probationem habere de homagio facto, & ſervitio recognito.*

Which with the aid of tenures, and feudall Laws, and the homage & ſervices due from the Subjects to the Crown, their Oaths of Allegiance and Supremacy, and our many and excellent Laws for ſelf-preſervation, and publique ſafety did ſo firm, and fix the *Militia*, and *Jus gladii* in our Kings and Princes, ordained and appointed by God, for the execution of Juſtice, Defence, and Protection of the People, their Religion,

Religion, Perſons, Lives, Laws, Liberties, and Eſtates, as they that would by perverted, wreſted, and falſly concluded arguments overturn our Government, and have Labour'd by all the Shifts and Falſities, which the Devill and his Imps could contrive and furniſh, to Propagate their Deſigns, and Principles of Wickedneſs and Confuſion, may find that all the Laws, Records, Annalls, and Hiſtorians of the Kingdom do aſſert, and prove the *Jus gladii* to appertain to none, but our Kings, and that the attempt to take it from them hath been ever accompted and puniſhed as a Rebellion; And that they are not Maſters of their Wits, or are Lunatiques without intervalls, that can think their Induſtry and Pains well beſtowed, to go about to prove that there ought to be, or ever was an Allegiance Oath, or Homage made or taken to the People univerſally conſidered, or was unto them due or could be by any right rule of Law, Cuſtom, or Right Reaſon, claimed by them or any way appropriate unto them.

Unto which well known and allways due Rights of our Kings and Princes, were very ſubſervient thoſe great aids and ſupport of the Kingdom, the Knights fees and lands, held of our King in *Capite*, the ſtrength and honour whereof, could neither well be preſerved, called upon, or certified unto our Kings in their Exchecquer, as the book called the *Red*-book, in that Court, kept only for that purpoſe, will inform us, without an often Summoning thoſe neceſſary and uſeful Courts, or keeping them from a diſuſe, which heretofore were wont to ſerve as Prognoſtiques or Indications, or a feeling of the ſtrength and pulſe of the Kingdom, by our Kings and Princes, the careful Phiſitians thereof; the neglect whereof by the diſſolution of the Abbies, Monaſteries, and religious Houſes, and thoſe large quantities of lands being no leſs then a fourth part of the Kingdom, and the parcelling thereof into ſmall quantities, afterwards granted with a tenure in Soccage, and our Kings granting of other great quantities of the Monaſtick Manors and lands, to be holden in free and Common Soccage of the King, as of his Manor of *Eaſt Greenwitch*, together with the carleſneſs of the Court of Wards and Liveries, and the Eaſcheators and Feodaries of the after ages, ſo little minding their Duties and Oaths, as if one parcell of lands were by a Jury found to be holden in *Capite*, they were well content to ſuffer all the reſt to paſs with a *per quæ ſervitia ignorant*, and the careleſneſs in the levying of Fines, and not ſuing out of Writs, in ſuch caſes accuſtomed,

med called *per quæ ſervicia*, which, if the tenures in *Capite* and by *Knight ſervice* had not been ſo ever to be lamented unhappily exchanged, for a moyety, after the Kings deceaſe, of a corrupt and unwholſome Drunken Exciſe, thoſe Terms in *Capite* with their Military aids and ſervices, the *quondam* ſtrength and glory of our Kings and Nobility, would have dwindled and ſhrunk into a conſumption and *Tabes*, of our heretofore *Gigantine* body politique, and have for a great part by themſelves, without the ſo often murmuring and unwilling taxes and aſſeſsments been too weak or feeble to preſerve their grandeur, and protect and defend them and their peoples properties, trades and intereſts, from domeſtick diſturbances and forreign invaſions or Injuries.

Howſoever rather then want a Shift, or that which they would have to be called Truth and Reaſon, when it can be neither of them, they think ſomething may for their purpoſe be picked out of old *Bracton*, to help in a Caſe of neceſſity, & & it were a pity, that the beſt Cauſe of God, as they call'd it, ſhould be loſt, for want of a little help to Support it, & therfore rather then ſuffer it to ſink and periſh, every one that was well affected and a well-willer thereunto, ſhould make uſe of all the Contrivances imaginable, and do all that they can to perſwade and believe, otherwiſe it will Conduce to little purpoſe.

SECT. XVII.

That the Comites *or* Earls *have in Parliament or out of Parliament, Power to Compell their Kings or Sovereign Princes to yeild unto their Conſults, Votes, or Advices, will make them like the* Spartan Ephori, *and amount to no more then a Concluſion without Premiſes or any thing of Truth, Law, or Right Reaſon to Support it.*

BUt the ſtraw and ſtubble upon which the late long Parliament-Rebellion hath built a great part of their wicked and godleſs pretences by miſuſing and ill underſtanding of a piece of our learned *Bracton*, ſnatched and torn from the true and genuine meaning and Intention of the Author, will deceive their expectations and hopes in relying upon it, if where he ſaith,

Item nec factum Regis nec Chartam poteſt quis Judicare Ita quod factum Domini Regis irritetur ſed dicere potuit quis quod Rex Bracton lib. 2 de acquirendo Domino. ca. 16. fol. 31

Rex Juſtitiam & bene et ſi hoc eadem ratione quod male & Ita imponere ei quod injuriam emendet, ne incidat Rex & Juſtic. in Judicium viventis Dei propter Injuriam.

Rex autem habet Superiorem Deum ſcilicet, item legem, per quam factus eſt rex.

Item Curiam ſuam, viz. Comites, Barones, quia Comites dicuntur quaſi ſocii Regis.

Wherein if the word *Superiorem* ſhould relate or be intended by *Bracton* to the Law and the Kings Court of Parliament, It would be as a little *Grammer* as good *Latin* Law, or Right Reaſon, and the Authors meaning who lived in the Time of the Impriſonment of King *Henry* the 3d. by *Simon de Montfort* and other his Rebellious Earls and Barons, and by ſome Citations in his book may be believed to have then or after Written it, his aforeſaid book cannot be rationally thought by the Intire and whole Context thereof to have any deſign to incourage ſo Wicked and long continued a Rebellion or intend to render the King Inferior to the Law, in Contradiction unto his own aſſertions, that *Rex parem non habet & Rex facit Legem*, and make his *Curia* Court or Parliament whom he can call, Continue, Prorogue, Diſſolve, wherein he hath a negative voice, and as *Sr Edward Coke* ſaith, is *Principum, Caput & finis*, and as it were the *Anima*, or Soul thereof, And to ſuppoſe him to be Inferiour to a Court of his own Calling or diſpoſing kept in his own houſe or Palace, and compoſed of many of his eſpeciall domeſtiques, is and would be beyond the fancies of little Children, or the reach of the ſillieſt ſort of Imagination.

Coke 4th part inſtitutes.

And need not be afraid of their Earls and Barons ſuppoſed bridling of them in Parliament, when the Barons may be Called or Summoned as our Kings pleaſed, and the Earls and Greater Nobility alſo before the Reign of King *Richard* the 2. And our Kings have both before, & ſince, always had as much liberty to Summon the Lords Spirituall, and Temporall, as they had before that Time had, not to Summon the Prælates, or as they had before or ſince the Reign of King *Richard* the 2. to diſpence both with the not Coming of the Spirituall and Temporall Lords, by an allowance of their Proxies given to Members of their own houſe.

Seldens tit. honr.

Et qui habet ſocium, habet magiſtrum, & ideo ſi rex fuerit ſine fræno, id eſt, ſine lege debent ei frænum ponere niſi ipſimet fuerint cum Rege ſine fræno.

Bracton.

Et tunc clamabant ſubditi, & dicent Domine Jeſu Chriſti. &c.

It

It ſhall be rightly conſidered that however the word *Magiſtrum* and the word *Socii* by ſome inadvertency of the Author may, unto thoſe who would be willing to have it to ſeem to give a power to the *Comites* & *Barones*, which the later never either in their uſe or inſtitution claimed or practiſed; It may recieve a more genuine or proper interpretation to be no more then an Adviſor or Inſtructor and more agreeable to the mind of the Author.

For the *Comites* were in the *Roman* Empire very antiently ſtiled *Conſules & Comites*, and after in that and the *Eaſtern* Empire, and all its limbs and branches rent and divided from it, and in this Nation enjoyed the name or title of *Conſul a Conſulendo*, and *Comes* only *a Comitando* or being *in Comitatu Principis, & Comitatum ipſam Aulam & familiam Principis*, which in *Tacitus's* time was called *a Cohors Cortis*, or *Curtis*, or Court, and not Seldom by our old Hiſtorians, as *Odericus Vitalis*, *Hoveden &c.* Ealdermen in the *Saxon* times and ſometimes *Comes*, which ſaith our Learned *Selden* were but at the firſt officiary dignities both here and in the Empire, and Governed as *Præfecti Comitatus & Provinciarum*, and the Counties were in *Edward* the Confeſſors Laws called *Conſulatus*, ſome *Veſtigia* or intimations whereof may be perceived in the grant or confirmation of the Earldom of *Oxford* to *Alberick de Vere* by the *tertium denarium Comitatus*, the 3d penny of the fines and amerciaments of that County.

Spelmans *gloſſ. in verbo Comes & Pancirollo de utriſq; imperiis.*

Odericus vitalis. Lib. 13.

Tacitus. Hiſt. Lib. 2.

Odericus vitalis. Hoveden & alii hiſtor. Angliæ paſſim & frequenter.

Selden. tit. honor. cap. 1. 3. ſect. 5.

L. L. *Edwardi Confeſſoris.* 12.

Seldens. tit of honor.

And were neither in *England* or the Weſtern or Eaſtern Empire, or any of their Hiſtorians, or by any of our or their Antiquaries or Enquirers into the Secrets or Cabinets of time, and its forſaken memorialls ever accompted to be either as *Socii* or *Magiſtri*, or ſo recorded in any of their or our Records, Annals, or Hiſtories.

And therefore we may without calling up the Ghoſt of our old *Henry de Bracton* (who had in the Reign of King *Henry* the Third made his enquiries into all the ancient Laws, and Cuſtoms of *England*, and ſearched the *vetera judicia*, (mentioned divers caſes and precedents formerly adjudged,) in the peruſall of his Learned Works, meet with his own expoſitions of what he there Wrote or could be thought to have been any of his Intentions.

Bracton in proæmio.

For he in the words immediately proceeding not only ſaith that *de Chartis vero Regis & factis Regum non debent nec poſſunt Juſticiarii nec privata perſona diſputare, nec etiam ſi in illo dubitatio oriatur poſſunt enim interpretari & in dubiis & obſcuris vel ſi aliqua dictio duos contineat intellectus, Domini Regis*

Bracton. Lib. 2. *de acquirendo Domino.* cap. 16. ſect. 3.

Regis erit expectanda voluntas & interpretatio, cum ejus sit interpretari cujus est concedere, & etiam si omnino sit falsa propter rasuram, vel quia forte signum appositum est adulterinum, melius & tutius est quod coram ipso Rege procedatur ad judicium.

But in several other places of those his learned labours plainly declareth that *leges Anglicanæ & consuetudines* were made and confirmed *Regum Authoritate, ipse autem Rex non debet esse sub homine, sed sub Deo, & sub lege, quia lex facit Regem.*

Lib. 1. Ca. 2. sect. 7.

Attribuat igitur Rex legi quod lex attribuit ei, viz. dominationem & potestatem, non est enim Rex ubi dominatur voluntas & non lex: Et quod sub lege esse debeat cum sit Dei Vicarius. Omnis quidem sub eo, & ipse sub nullo nisi tantum sub Deo, Parem autem non habet in regno suo quia sic amitteret præceptum, cum Par in Parem non habet imperium.

Lib. 1. ca. 2. *de rerum divisione.* sect 8.

Item nec multo fortius superiorem nec potentiorem habere debet, quia sic esset inferior sibi Subjectis, & inferiores pares esse non possunt potentioribus.

Et Sciendum est quod ipse Dominus Rex qui ordinariam habet Jurisdictionem, & dignitatem, & potestatem super omnes qui in regno suo sunt, habet omnia jura in manu sua quæ ad Coronam & Ligalem pertinent potestatem, & materialem gladium qui pertinet ad Regni gubernaculum, habet etiam Justitiam & Judicium quæ sunt Jurisdictiones ut ex Jurisdictione sua sicut Dei Minister & Vicarius.

Lib. 3. *de acquirendo Dominio.* cap. 24. sect. 1.

Habet etiam quæ sunt pacis ut populus sibi traditus in pace sileat, & quiescat, habet etiam coertionem ut delinquentes puniat & coerceat.

Si ab eo breve petatur, cum breve non Currat contra ipsum, locus erit Supplicatione quod factum suum Corrigat & emendet quod quidem si non fecerit satis sufficit ei ad pœnam quod Dominum expectet ultorem nemo quidem de factis suis præsumat disputare multo fortius contra factum suum venire.

Bracton. Lib. 5. cap. 8.

And *Stamford* a Judge speaking of the opinion of *Wilby* delivered in *Mich.* 14. *E.* 3. that in King *Henry* the 3ds Reign he had seen a Writ which was *Precipe Henrico Regi*, and it was said in *Hilary* Term 22. *E.* 3. that in the time of King *H.* 3. the King might be impleaded as any other Common Person, but King *E.* 1. his Son ordained such as were grieved, or to sue to the King by Petition, howbeit saving the authority or reformation of those books, he thought *that the Law was never that a man should have any such Action against the King*, & saith that *Bracton* in his 3d Book under the Title

Stamford grants of the Kings 41.

Title of *contra quem competit Assisa* concludes as to the King in the negative; And so saith *Stamford*, no Action lyeth against the King, but the party damnified is to sue unto him by Petition. And in one place *Bracton* discoursing where the King doth a wrong, he saith, *nec poterit ei aliquis necessitatem imponere quod illam corrigat vel amendet* (speaking doubtfully not positively with a *nisi sit*) *qui dicat quod universitas Regni & Baronagium suum hoc facere debeat & possit in Curia ipsius Regis.* *Bracton. Lib. 5. de defaltis cap. 3.*

But he doth more clearly express himself afterwards, when he saith, *Rex enim decipi potest cum sit homo, Deus autem nunquam cum sit Deus*, and where any thing should be said to be *injuria Domini Regis*, saith again, that *Superiorem non habeat nisi Deum, & satis erit illi pro pœna quod Deum expectet ultorem, & quicquid dicitur de facto Regis eo quod est Rex & proinde factum judicium disputari non debet, nec factum a quoquam judicare nec revocari poterit, cum sit justum, si autem factum injustum fuerit, perinde non est factum Regis, & cum non sit factum Regis, quia injustum, inde disputari poterit & factum Judicari, sed idem emendari non poterit nec revocari sine eo.*

So as to rescue the words of that Learned Author from those wicked and absurd interpretations, which the late Parliament-Rebells and Monarchy-Underminers would have put upon them, It must either be thought that that worthy book of his, hath in that particular Place and words so catcht at, fallen under the fate of many Eminent Books or Manuscripts even amongst those of the venerable Fathers of the Church, who have not in a long race or course of Time and contingences been able to escape the hands of Corruptors, as the Books or works of the Excellent *Origen* did by the over-busy designs and rashness of *Ruffinus*, the many Spurious Manuscripts of the *Vatican* Library, and of other Popish Authors so acknowledged to be by *Baronius*, and some other of their own Writers. *Baronius Annalls ad An. 315. 12. 13. 14. 15.*

Or rather that the good man intended no more by the word *Magister* then an instructor or an Assistant, as the *Jews* called their Doctors *Rabbies*; or as *Origen* was called, by way of Eminency, the Master of the *Eastern* Churches, and *St. Cyprian* called *Tertullian* so who was never his Master; and our Famous Lawyer, *Littleton*, gave no less a name to Judge *Newton* his Predecessor.

And that he used the word *Socii*, but as *Æneas* is sayd to have done to his afflicted *Trojans* in their wandrings to seek new habitations, when in his Oration to comfort them, he *Virgilii Æneid.*

ſaith, *O Socii neque enim ignari, ſumus ante malorum*; or as *Julius Cæſar* did when he encouraged his Soldiers with the acceptable title of *Commilitones*.

Or as our laws and reaſonable Cuſtoms have done in the titles and uſe of the *Maſters* of *Chancery*, Subordinate to the Lord Chancellors or Keepers of the great Seal of *England*, who ſit and ſay nothing; or as in the acts of our Courts of Juſtice are done, where they are recorded and ſaid to have been done by the Chief-Juſtice *& Socios Suos*; or as in the caſe of an *aſſociate* unto a Chief Juſtice, or any of the Kings Juſtices Sitting by and under the Kings Commiſſions of *Oyer & Terminer*, where an equality, co-ordinatiou, or Superiority ſo *contra*-diſtinct and oppoſite each unto other can never be Claimed or allowed. And the Framers and Fancyers of that kind of Argument will gain little by it, when the word *Magiſter* properly and truly ſignifies no more then a *Doctor* or *Inſtructor* (not a Superior) as Sr *Henry Spellman* hath given us the definition, received meaning, and acceptation of it, when he ſaith, *in Jure Canonico vel Civili Magiſtri dicuntur in Theologia vel Artibus videtur tempore Clementis. 5. & Concilii viennenſi Magiſtri & Doctoris vocabula confundere ævo ſcilicet Edwardi 1. Uſitatiorem tunc fuiſſe apud noſtrates Magiſtri titulum, reverendum & hoc vocabulum ſemper de peritia venit & in nomine cognoſcitur quod ſit moribus æſtimandum.*

Spelman glof. in Verbo Magiſter.

And therefore thoſe many Teſtimonies before-recited of *Bractons* contrary meaning, if he may be, as certainly he ought to be, allowed to be his own Expoſitor may free and vindicate him from being either a *Presbyterian* or a *Conventicler* or *Republican*, and make him to be the better believed, for that he wrote that book after the 20th, Year of King *Henry* the 3d. as will appear by his citations therein *flagranti Seditione*, when the times were full of danger and Suſpicion, there were great thoughts of heart, and commotions of mind, and the Regall Authority was endeavoured to be depreſſed.

Lived after the 21ſt Year of the Reign of that King, when the jealouſies of that part of his Nobility which ſhortly after took Arms, & entred into an open War & Rebellion, againſt him, had made him walk in that dreadfull Proceſſion with burning Torches through *Weſtminſter-Hall* to the Abbey Church or Cathedrall, curſing the infringers of *Magna Charta*, and *Charta de Foreſtis*, and being a Judge Itinerant in the 51d, Year of that Kings Reign, was believed to have written that Book in the beginning of the Reign of King *Edward* the Firſt, could not be ignorant of what had been done, and

Dugdales Origenes Juridiciales. Seldens notes upon Hengham. 239.

Ro. Par. 51. E.3. in dorſo.

Tranſacted

Tranſacted in the 42d Year of the Reign of King *Henry* the 3. in the aforeſaid Proviſions at a Parliament (ſo called) holden at *Oxford*, and in the 49th, Year of the Reign of King *Henry* the 3d, during his Impriſonment by an unruly part of the Nobility. *Seldens diſſertatio ad Fletam.*

But if the Earls could have been ſaid to have been *tanquam Socii & fræna* in Power and Authority with the King, which they never were, that could not Entitle the Barons who in the language of our Laws, Records, and Hiſtories, forreign, or domeſtique, were never called *Comites*, or *Socii* of their Sovereigns. But as Earls had ſurely ſomething elſe to do, and were not (as *Frænas* uſe to be Superior to Horſes whoſe much greater ſtrength could not otherwiſe be ſubdued by mankind) to govern and rule their Sovereign as the greatly abuſed words of *Bracton* would have it, when their *ordinaria poteſtas* in King *Ælfreds* and thoſe elder times now very near 800. Years agoe, was *in Comitiis Comitativis præſidere in bellis ſui Comitatus militibus imperandi, in Curia ſine Comitatu Regis conciliis publicis ſuorumque negotiis attendendi, & mandata Regia ſubditis ſuis Communicandi Rex enim ipſi Comiti in Curia ſua plerunque reſidenti, mandata detulit ille Vicecomiti, his Centurionibus, Centuriones decurionibus, maxima cum expeditione pertulerunt.* *Epilogo. Li. 2. de vite Ælfredi Regis. Scripſ per Johannem Spelm. Henrici Spelmani filium.*

And neither the Earls or Barons were or claimed to be *Conſortes Imperii*, or like the *Spartan Ephori.*

Or if the Title of *Comites* did or could give ſuch a Right or Privilege unto them, which may with great Evidence be utterly denied, and the contrary as eaſily Juſtified, the Commons or univerſality of the People, will, untill they can be ſo mad as to think themſelves to be *Earls*, *Socii* or *Comites* of their Kings and Princes or *Barons*, be little the better for that miſchievouſly overſcrewed Text or words of *Bracton.*

Or The Earls or Barons being not likely in their honourable Aſſembly of Peers to claim, or have more then a deliberative and conſultive Power in matters only concerning the King and his Monarchicall Government, but where it was *inter Pares* or amongſt themſelves, or by his ſpeciall licence, when at the firſt Coronation of King *Richard* the 1ſt, the *Comites & Barones ſerviebant in Domo Regis prout dignitates eorum exigebant, & Die Coronationis ſuæ Johannes Rex accinxit Willielmum Mareſcallum gladio Comitatus de Striguil & Gaufridum filium Petri gladio Comitatus de Eſſex qui licet antea vocati eſſent Comites & adminiſtrationem ſuorum Comitatuum* *Hoveden parte poſteriore. 375.* *idem 452. parte poſteriore.*

tuum habebant, tamen non accincti erant gladio Comitatus & ipſi illo die ſervierunt ad menſum Regis accincti gladiis.

And therein *Mr Selden* that *Monarch* of learning and Dictator of Reaſon is to be ſo interpreted as it may conſiſt with Reaſon and Truth, when he declared that the Lords in their deliberative or judiciall Power in the Court or Houſe of Peers in Parliament, had a Power to give or paſs judgement for or againſt their Sovereign; for that in the precedent cited by him of King *Edward* the Confeſſors appeal or accuſation of Earl *Godwin* in the great Councell or Parliament of that King for the death of his Brother *Alfred*, to whom he as well as the King had appealed for Juſtice, as the words of the judgment thereupon given againſt Earl *Godwin* and the opinion of the Lords not contradicted there mentioned as *Malmesbury*, *Hoveden*, *Huntington*, *Brompton* and *Florentius* do teſtify was that *Comes nec Baro, nec aliquis Regi ſubditus bellum*, battail, or ſingle combat (ſaith the margin; a kind of tryall then much in uſe amongſt contending private Perſons, where other Evidence failed) *contra Regem in appellatione ſua de lege poteſt vadiare ſed in toto ponere in miſericordia ſua & emendas offerre competentes*; whereupon it was adviſed that *ipſimet & filius ſuus & duodecim Comites & amici & conſanguinei ſui eſsent coram Rege humiliter procederent onerati cum tantum auri & argenti quantum inter brachia quilibet poterit bajulare illud ſibi pro ſuo tranſgreſſo offerendo deprecando ut ipſe malevolentiam ſuam, rancorem & iram Comiti condonet & accepto homagio ſuo & fidelitate terras ſuas ſibi integre reſtituat & retradat illi autem omnes ſub iſta forma theſauro ſe onerantes & ad Regem accedentes ſeriem & modum conſiderantes locum eorum sibi demonſtrabant Quorum conſiderationi Rex contradicere nolens quicquam judicaverant ratificavit* wherein the utmoſt uſe that can be made of that Action and precedent to confine the Kings judicative Power in Parliament to that of the Peers and Lords Spirituall and Temporall is that the King upon Earl *Godwins* anſwer to the Kings accuſing him for the Death of *Alfred* his Brother, and the Earls excuſing himſelf with a *Domine mi Rex ſalva reverentia & gratia veſtra pace & dominatione fratrem veſtrum nunquam prodidi nec occidi unde ſuper hoc pono me in conſideratione Curiæ veſtræ* was not willing to be a Judge or giue Sentence in an appeal of his own and ſuch a Concernment as the Death of his Brother for which one of the Peers was to be Arraigned and fitter to be tryed as the Lew required by his Peers which by the Ancient Cuſtom

Seldens tit. honor. 632. 633. 634

and

like Trialls might be done without any derogation from the Kings higher and ſupreme Authority, and therefore gave a leave or licence to them in that ſingle particular or extraordinary caſe to do it.

And our Kings and Princes to avoid the imputation of Tyranny Oppreſſion or Partiality, may be the more willing to indulge the like in all caſes and matters of Attainders and forfeitures of lands and Eſtates where our Laws do give unto them the benefit accrewing.

And the honourable Peers and Judges in that Court ſubordinate unto the King may as to matters therein determinable be the better content therewith for that not being Sworn nor puniſhable, as Judges in other Courts are, and in what they do adviſe therein, they neither are or can be puniſhable in a *judicio colloquiale*, wherein as *Paulus Screrbic* hath ſaid in his *Statua Poloniæ*, *Judex in colloquiis aut Regis præſentia judicans argui de male judicato non poteſt.*

Paulus Screrbic promptuar. Statut Poloniæ. 171.

And the word KUPIA as Sir *Henry Spelman* ſaith, with the Greeks and Romans ſignifying *poteſtas & dominium*, and the Lord or owner of it, *qui poteſtate fretus eſt judiciumq; exercet*, and the place *habitaculum, domini*, the reſidence or Court of the Lord or Superior, *ubi ſana rei narratio placitum forenſes vocant, dicebatur autem Curia primo de Regia, palatio principis, inde de familia & judiciis in ea habitis ritu veterrimo*, or the place where Kings did adminiſter Juſtice, ſurely Kings were not therein to be co-ordinate, or any leſs then Superior.

Spelmanni gloſſar. in vocibus Curia & Curtis.

And the very Learned Sir *John Spelman* the Son of that Excellent Learned Father writing the Life of King *Alured* or *Alfred*, hath together with the unqueſtionable hiſtorical part and truth of the relation given us the obſervation that

Ælfredi magni Anglorum Regis vita per Johannem Spelman Equit aurat Henrici. f. Lib. 2. 121. ſect. 10. 11. 12.

Et Comitum poteſtatem ad huc minuebat nam neq; iis integra reſtabat negotiorum bellicorum tractatio. Horum enim magna pars Heretochiis, ſive Ducibus inferioribus a plebe in Comitiis ſuis Electis Committebatur. Hi enim recenſionibus, meditationibis, armorumq; luſtrationibus præfuerunt; milites in Centuriis ſuis coeuntes, ad locum toti exercitui deſtinatum deducebant; in bellis demum Ducum inferiorum officiis fungebantur. Prout e legibus boni Edwardi aliiſq; locis facile colligitur. Hæc inſtitutio (cum a populo, non Comitibus Ductores hi eligebantur) non parum e Comitum potentia abſtulit.

Comitibus ergo, quorum potentia Regibus ſemper maxime formidabilis, relinquebatur ordinaria poteſtas in Comitiis Comitativis præſidendi; in bellis ſui Comitatus militibus imperandi,

randi, in Curia ſive Comitatu Regis conciliis publicis, ſuorumq; negotiis attendendi; & mandata Regia ſubditis ſuis communicandi quod mira celeritate poſt novam hanc imperii inſtitutionem factum eſt.

Et quidem ſi Ælfredi noſtri veſtigiis poſteriores Regis inſtitiſſent, neq; tot Seditiones ortæ, neq; tantum Sanguinis in bellis Civilibus exhauſtum, neq; Regis ipſi toties temporibus ſubſequentibus periclitati fuiſſent. Sed tam bene conſtituta partim bella Civilia (quæ ſtatim poſt ejus obitum recrudeſcentia pene omnibus legibus executionem impediebant, videantur Edvardi ſenioris querelæ, lege quarta) Daniq; poſt renovatas invaſiones ſub canuto victores, maxime vero Normanni, labefactarunt. Gulielmus enim, ſive ut Magnates, in invaſione regni hujus maxima momenta, pro meritis, & pactis etiam, remuneraret; ſive ut Anglos dominio ſuo efficacius ſubderet, nobilibus ſuis Normannis maximam potentiam (que poſtea tot malorum origo) indulſit. Henricus vero primus, quantum potuit, leges Ælfredi noſtri & inſtituta revocavit; ſed tempora conſuetudineſq; perverſæ omnia, quæ expedire poterant, inferri non patiebantur.

And the authority of our Kings in Parliament were not only in the Ages before but in King *Alfreds* or *Alureds* time, Superior and Super-eminent in his great Councells over his Subjects, as *Aſſer Menevenſis* living in his Court and Writing his Liſe after his Death ſaith, that *Sæpiſſimo in concionibus Comitum & præpoſitorum ubi pertinaciſſime inter ſe diſſentiebant (ita ut pene nullus eorum quicquid a Comitibus & præpoſitis judicatum fuiſſet verum eſſe concederet) qui pertinaci diſſenſione obſtinatiſſimo compulſi Regis ſubire judicium ſinguli ſubarrabant*, and when Appeals and Writs of Error came before him from his Earls or Ealdermen ſaith Mr. *Selden* out of *Aſſer Menevenſis*, when he found Error and Injuſtice committed by them would Sharply reprove them.

Aſſer Menevenſis in Ælfredi Regis & Seldens tit. honor. 628.

For in our Monarchicall Government with the ancient long continued and well-experimented exiſtence and conſtitution of the Houſe of Peers and Peerage in the Kingdom of *England*, the Common People were ſo ſubordinate to the Baronage and Peers as the Commons were allways underſtood by our Kings and our Laws and the Lords Spirituall and Temporall, and by the Common People themſelves, to be comprehended in and under the Baronage, who did for them and as they were included in them very often in our great Councells and Parliaments, grant or deny aids or Subſidies,

Subſidies, and in their behalf without the Commons themſelves ſpeaking or adviſing, alledge their poverty and diſability, and the Popes and Forreign Neighbour Princes in their letters and reſcripts underſtanding it no otherwiſe, of which *Mathew Paris*, and *Thomas* of *Walſingham* authors of great credit living in the Reign of King *Henry* the 3d. and King *Edward* the 1ſt. his Son, have afforded us plentiful inſtances. *Mat. Paris & Thomas Walſingham.*

And all things rightly obſerved or Conſidered, could not give any one the leaſt of reaſon or colour of it, for if our *Comites & Burones* (*Bracton* not mentioning the Biſhops,) who then had great power if not too much over our Kings and Princes, there then being no Dukes, Marquiſſes, and Viſcounts whom our Kings then uſed not to create, though there were many Dukes, or ſaid to be, in the time of the *Saxons* before the *Norman* Conqueſt, who by our fundamentall Laws enjoyed all their authority Subordinate unto their Parliaments and Great Councells, might forfeit their Lives, Eſtates, and Lands, holden of them *in Capite*, which was the only Meaſure of puniſhment in *England* before the Act of Parliament in the 25th Year of the Reign of King *Edward* the 3d. was made, which did at the requeſt of the Lords and Commons (the Biſhops not mentioned) declare what ſhould afterwards be attempted and puniſhed as High Treaſon, againſt him and his Heirs, or for Counterfeiting his Great Seal, which did or ſhould bear record of the Laws and Actions and Kingly Government of our Kings & Princes, there having not been in that Act of Parliament or any Act of Parliament; or Laws of our *Britiſh*, *Saxon*, *Daniſh*, or *Norman*, before or ſince, tacitly or expreſsly, for the aboliſhing or taking away our Feudall Laws and Cuſtoms or that ever to be wailed unhappy Act of Parliament made by his now Majeſty, King *Charles* the 2. for the taking away of the Court of Wards and Liveries by reaſon of his tenures *in Capite* and of all homage and fealty, drawn and prepared by a Learned Lawyer, and a Member of that Houſe of Commons in Parliament, Dreaming of a Common-Wealth, untill their man of Sin *Oliver Cromwell* was pleaſed to awake them, who was in his profeſſion well known to have been eminently skilled in the Common Laws of *England*, ſome part of the Civil and Canon Laws, and a great part of the Records of the Kingdom, and much honoured for his love and care of Juſtice, But being a Judge in thoſe Times, and ſeduced by another of that Rank, to take ſuch a place upon him, upon the pretence of keeping up and ſupporting the Law, 25. *Ed.* 3. *c.* 2.

Law, and was upon his Majeſties Reſtauration advanced into an higher degree, ſeemed notwithſtanding not to have been ſo much or ſo well read as he might have been in the Feudall Laws excellent conſtitution and frame of the Monarchick Government of this Realm, when in that Houſe of Commons either in a cool neutrality, or over perſwaded by by his fears of or deſire of living in ſafety or to preſerve the Common Law, when againſt his will and well known Integrity, he was in that houſe of Commons in Parliament heard by another Member, that Sat next unto him, to ſay or declare his opinion that the King was truſted by the People, wherein he might have better conſidered that two parts of our Laws, moſt precious and neceſſary both to and for the King and his People, which were the *Summoning and calling of Parliaments* or *Great Councells*, and the Tryals of his Subjects Guilts or Innocencies, *per Pares*, with Reliefs & Herriots due to our Kings and Princes, and unto Ten thouſand Lords of Manors or thereabouts Subordinate unto their Kings in *England*, and *Wales*, with Fines and Amercements, Felons and Out-Laws Goods, *Annum diem & vaſtum cum multis aliis*, &c. were ſolely and principally derived from the *Feudall* Laws.

Which with ſome of the Uſages and Cuſtoms of the Nation, and our Statutes and Acts of Parliament, from Time to Time after made and added thereunto, were the Laws which many of our Kings and Princes took an Oath at their Coronations to Protect and Defend, as alſo the *leges & Conſuetudines quas vulgus elegerit*, who, if our Feudal Laws had not been ſo very ancient as they have been, would not want ſuch as would heartily deſire and make choice of them to have Lands given to hold of their King *in Capite*, and enjoy to them and their Heirs under his more eſpeciall protection, and was in the Reign of our famous *Arthur*, King of *Brittain*, eſteemed ſo great an happineſs, as *Conſenſu Hiſtoricorum eruditorum* of that Age and Time, *Leland* hath informed us, *Utherus Pendraco fuit pater Arthuri cujus & Gorlas Corinnæ regulus beneficiarius erat* a Notion or Title anciently uſed of ſuch as held their lands *in Capite* or by Knight Service.

Leland in aſſertione Arthuri.

And therefore howſoever the learned *Bracton's* Pen might ſeem to have erred in his expreſſion or words of *Frænare Regis*, it might as it ought conſonantly to the Proper and Genuine Senſe, Intention and Meaning of all his Arguments, through the Context and Tenor of his whole Books, being

no

no little one, be accepted and taken to be no otherwiſe then a reſtraining him, as Kings and great and good men have uſually been, by good advice and Councell of friends or Servants, as *Naaman* the Syrian's Servants did in their Lords returning back in an anger from the Prophet *Eliſha*, who came near unto him and perſwaded him to waſh in *Jordan* in order to his recovery from his Leproſy, when otherwiſe that harſh word or phraſe of *frænare Reges* could not without great danger, damage or forfeiture, be uſed, or any forcible perſwaſion put upon a free Prince, by Authorities coutrary to their Oaths of Allegeance and Supremacy, Juſtly and Truly deſcending from the *Feudall* Laws, which commandeth all men holding of them *in Capite* to do otherwiſe. 2 *Reg.* ca. 5.

And although ſome of our Ancient Hiſtorians have informed us, that in a Parliament holden at *Merton* in the 20th, Year of the Reign of King *Henry* the 3. upon the Biſhops endeavouring to have a Law made, that according to the Canon Law the Children born before Marriage *illicitis amplexibus*, ſhould by a ſubſequent Marriage of the Parents be eſteemed legitimate, the Temporall Lords *reſtiterunt*, and laying their hands upon their Swords *Jurarunt quod noluerunt leges Angliæ mitare*, it was not any plain abſolute deniall of the Kings Deciſive and Legiſlative Power, but only an Altercation, Debate, or Diſpute betwixt the Spirituall and Temporall Lords in Parliament concerning that matter.

And neither the *Biſhops*, or the houſe of *Commons*, or any of the Commons repreſented, or not, could not ſo much as attempt to force or bridle their King by Commotions or force of Arms, which by the *Feudall* Laws and the moſt of our Laws and Cuſtoms derived from thence would have been legally adjudged a Rebellion, and *Frænare Regis* in that undecent expreſſion, *ſi quod rei fecerit aut neglexerit, quod Dominum contempſiſſe dicitur, aut ſi Dominus per conſequentiam lædatur perſona cujus exiſtimationem ſartam tectam manere Domini intereſt*, for *Concilio & auxilio Domino adeſſe debet*, which was the Cauſe and ground of right Reaſon, that in the Reign of our King *Edward* the 2. the Lord *Beaumont* or *de Bello monte* was in Parliament Fined for refuſing to come to Parliament and give the King his advice or Councell: And it is not many Years ſince that the Emperor of *Germany* Seiſed and Impriſoned Prince *William* of *Furſtenburgh*, a feudatory for appearing in Perſon at a Treaty betwixt the *Emperor*, and the King of *France*, againſt his Lord the *Emperor*; *Feltman de Feudis, ſect.* 45. p. 146. 148.

And our Meſne Lords holding their Lands, Juriſdictions, Courts Baron and Courts Leet, notwithſtanding that Act of Parliament for diſſolving the Court of Wards and Liveries, and the tenures in *Capite* ſupporting it, did from the 24th, Day of *February* in the Year of our Lord 1645, when in the height of their Wars againſt their Sovereign they had but Voted the Diſſolution of thrt Court and the Tenures in *Capite*; for at that Time there appeared not to have been any Act of Parliament, although an Act made in the Time of *Oliver Cromwell* might be an uſher, or uſed as a pattern in the drawing of that (by a learned Judge of thoſe Rebellious Times) wherein the Reliefs & Herriots were found neceſſary to be reſerved unto his now Majeſty his Heirs and Suceſſors.

Which may ſadly be believed to have been a *Decapitation* or cutting off the head of the Body-Politick or Government as a Prologue to the Tragicall and Direfull Murder in the cutting off the Head of their moſt Pious better Deſerving King; No King or Prince in the World, Chriſtian or Heathen, black or white, that had all their Subjects except their Nobility and the Biſhops, and ſuch as hold their Lands by the Honorary Services, of grand Serjeanty, or by the tenures of Copyhold or by Copy of Court-Roll unto which our *Littleton* giveth no better a name or Title then tenure in Villainage, or any ſervice incident thereunto, which being originally derived from the tenures *in Capite*, were, not many Years ago, very nigh a fourth Part of the Kingdom, that had ſo ſmall a reall dependance upon them, or ſo great a part of their Kingdoms of *England*, and *Ireland* converted into *free and Common Soccage*, the tenures *in Capite in Ireland* being about that Time with the like exceptions converted into free and common Soccage, as *England* diſaſtrouſly alſo was, the Iſles of *Man*, *Wight*, *Garnſey* and *Jarſey*; the two latter being parts of *Normandy*, together with the *American* Plantations, as *Virginia*, *Bermudas*, *Barbados*, *Jamaica* and New *England* and many other our Weſt *Indian* Plantations eſcaping that part of the greateſt wound that could be given to our Ancient Monarchy.

Littletons tenures.

And how dangerous and prejudicial a miſconſtruction of the Statutes *de Uſilus in poſſeſſionem transferendis* might be both unto the King and his Subjects, if he ſhould be accompted to have been a truſtee for the his people, and it was a wonder that the late Lord Chief Juſtice *Hale* ſhould in that Act turning all into *Free and Common Soccage*, not take a Care to aboliſh the Releifs, being a Duty long before the Conqueſt

Conqueſt payable to his Majeſties Royal Progenitors, but leave them with an Exception of all Releifs and Herriots, Fees, Rents, Eſcheats, Dower of the 3d part, Fines, Forfeitures, and ſuch as are and have been uſually paid in free and Common Soccage.

Maymed and mangled the Monarchy and Government, as much, if not more, then *Adonibezeg* a King of *Canaan* did the Seventy Kings, whom he had taken Priſoners, and cut off their great Toes and Thumbs, for no other advantage then to undermine the beautifull and goodly Structure of our Government, built and ſupported by and upon theſe great Pillars and excellent fundamentalls, which, like an Houſe built upon a Rock, was able to reſiſt any the winds and Storms, for many Ages paſt leave us as a houſe built upon the Sands, ready to drop into it's own Infallible ruines, which could not be ſo Rebuilt or Reduced to it's former Strong and Goodly Structure, by reſerving to the King and his Succeſſors the Reliefs and Herriots, nor will ariſe to any recompence, although it might be a great value, together with the Exciſe of Ale, Beer and Sider, added thereunto, which hath helpt to bring in or increaſe, as the opinion of the Doctors of Phyſick have informed us, that Epidemick now more then ever Prædominant Scorbutique Diſeaſe, making rich the only falſe-dealing Brewers & Alehouſe-keepers, and Impoveriſhing the Common People, & *Conſideratis Conſiderandis*, in his Majeſties neceſſary and inevitable Expences more then ever was or can be eaſily or before-hand calculated. And it may be hoped that it was neither intended by that no Phanatique preparer or framer of that undermining Act of our Monarchick Government, or any Aſſenters or Adviſers of it, or his Majeſty, that gave the breath of life unto it, and was as the Anima or Soul otherwiſe animating a liveleſs body, did ever intend to abridge or deny himſelf the Sovereignty of our *Brittiſh* Seas, or their tenures *in Capite* holden of none but himſelf and God, the *Antemurale* or Walls thereof, and with our Ships travelling in or out upon them, as the Safety, Strength, Power, Riches, and Honour of the Nation, or to be ranked or accompted as a tenure in *Common Soccage*, free *ab omnibus ſervitiis*, when it was never accompted to be any part, or within the verge of the Court of *Wards* and *Liveries*.

1. cap. *Judic.* 2. 6. & 7.

The Seas belonging to our King of *England*'s Sovereignty having been never under the *Courts of Wards and Liveries*, or any of its Incidents, or appurtenances, or within its cogniſance,

cogniſance, and this newly found out device or extraordinary way of *Soccage* or tenure by the *Plow*, free *ab omnibus ſervitiis*, was never nor can be fit for the Seas, unleſs they, that cunningly have been ſo fond of it, can make it to be fit or proper or to any purpoſe or profit to adventure to Plow up the Seas, with *Plows* drawn by Horſes or Oxen, and by that means of Plowing up the Seas, make the Seas to yeild and deliver up all their Riches, Plate, Gold, Silver, and Jewells, which misfortunes of Shipwrack have before 2000 Years if not more in the *Epoche* or age of our long continued Monarchy far exceeding the Gold of *Ophir*, and the value of all the Lands of *England* if they were now to be ſold, the former admitting a greater Decay then the Latter, Our *Britiſh* Seas having always been in ſubordination to our Kings and Princes under the Separate Government of the Lord *Admiralls*, Court of *Admiralty*, *Vice and Rere Admiralls*, *Deptford-Houſe*, and the Cares of the *Cinque*-Ports, many other Sea-Ports, *Light-Houſes* and Maritime Laws, *&c.*

Whereby our Kingdom hath been greatly enriched by its Trade and Marchandiſe carried further then the *Roman* Eagles ever Flew, and as far as the four great quarters or parts of the Habitable World do extend or ſtretch themſelves unto, and the Sun ever ſhined upon.

And if it had not been upon the Deſign of blowing up or Diſarming our Monarchy together with as much as they could of the Kings Regall Rights for the Defence of Himſelf, they would not have attacqued the *Militia*, or laboured to Deſtroy it, when *Glin* Serjeant at Law, a buſy Enemy of our Monarchy, and another *Serjeant at Law* whoſe name for his great parts and abilities I ſilence, heartily wiſhing that he would before he Dye add repentance to his treaſury and great ſtock of Learning in the employing of it Otherwiſe then it ſhould have been in that ſo called long and Hypocriticall Wars, Rebellions, Falſe Doctrines, together with his Miſdoings, in the drawing, and forming the Act of *Oblivion* and *Generall Pardon*, the greateſt and largeſt in extent and gift that ever any of our Kings and Princes gave unto the greateſt and moſt in number of their Subjects, wherein he acquitted theſe numberleſs Offenders, that never pardoned any of his or his Bleſſed Fathers Loyal Party any or but ſmall things, but retained every thing which they had taken from them by Plundering, Taxes, Sequeſtrations, Decimations, and ſpoil of Woods and Timber, which

ſhould

Act of Oblivion & Generall Pardon granted by his Majesty after his Happy Restauration.

ſhould have been an aſſiſtance to the building of their burnt or demoliſhed Houſes or Caſtles, and the building of Ships the wooden walls of our Seas, and the Carriers out and the bringing home of our Merchandiſe.

In the Preamble whereof It was declared, that *whereas ſeverall Treaſons, Murders, and Crimes had* been committed and done by Colour of *Commiſſions*, or *Power* granted unto them by his Majeſtie or his two *Houſes of Parliament*, as if any Treaſon could in Law be committed by any Commiſſion or Order of the King or his Royall Father, the *Bleſſed Martyr*, and the Framers of that Act of generall Pardon, could not but remember, that many that Aſſiſted his Late Majeſty came upon his Proclamation and ſetting up his Standard at *Nottingham* Caſtle under the obligation of their Tenures *in Capite*, and the Duty of their Oaths of *Allegeance* and *Supremacy*, and others for hire by great Sums of Money, ſent him by that Loyall and Prudent old Earl of *Worceſter*, Grandfather unto the now Duke of *Beaufort*, and by men leavyed and ſent unto him from *Wales* in his Majeſties March as far as *Shrowsbury* towards him, the better to enjoy, and be near the great aſſiſtance which he promiſed and performed, without which, and the Ancient and Legall aid and help of his tenures *in Capite* and by Knight-ſervice, he could not have made any defence for Himſelf or his Loyal Subjects, but might have been taken and Impriſoned by the Sheriffes of every ſhire or County, thorough which he was to paſs in his Journey to *York*, with his eldeſt Son the Prince, whom they would likewiſe have ſeiſed upon, when he was by the Faction and their *Hunters*, driven and purſued as it were thither for Refuge, as a *Partridge* hunted upon the Mountains, from his Parliament; when he had no Proviſion of Arms, Men, or Money: And the Rebell-Party of that Parliament had formed and beforehand made ready a great and powerfull Army without any manner of want of Money and a ſeduced party of his People to march againſt him.

And our *Feudall* Laws were ſo little deſpiſed, unknown or unuſuall in this Kingdom, as our *Magna-Charta* and *Charta de Foreſta*, more then 30 times confirmed by Acts of Parliament, and the Petition ſo called, *of Right*, will appear to have no other ſource or Fountain as to the moſt of the many parts theteof then the *Feudall* Laws. And they muſt be little Converſant in the reading, practice and uſage thereof, demonſtrable in and through our Records and Authentique Annalls and Hiſtorians that will not confeſs and believe it,

when they ſhall ſo manifeſtly almoſt every where ſee the *veſtigia* and tracks thereof and our *Saxon* Laws faithfully tranſlated and rendred unto us by the labours and induſtry of our learned *Lambard* and *Abraham Whelock Arabick* profeſſor in the Univerſity of *Cambridge* and the gloſſary of our Learned *Sr Henry Spelman*, may abundantly be found to declare that they had for the moſt part no other Progenitors.

Lindenbrogius.

And could not be underſtood to amount unto no leſs then the greateſt and ſtrongeſt Fortifications that any Kingdom could have, though not ſo guarded by the Sea, as our Iſlands of *Great Brittain* are and have been, when Seventy Thouſand Horſmen *gravi Armatura* or not meanly Armed ſhould (as the manner of thoſe Times were) without much diſturbance to their other affairs be ſodainly ready upon any Emergencies of Wars, Inteſtine or Forreign, without Pay or Wages; under the greateſt obligations Divine and Humane, to defend their Kings themſelves and their Eſtates, which in more valiant and plain dealing Times did in no longer part of time, commonly determine the fate or fortune of a Kingdom as to a great part of the Event or ſucceſs of a War.

Cokes 1 part. *inſtitutes & Comment ſur. Littleton.* ca: 4. ſect. 101. & 102.

And was ſo neceſſary to the Defence of the King and People, as our *William the Conqueror*, that did not bring but found the *Feudall* Laws here in *England*, may be thought to have been very willing to have ſtrengthend his Conqueſts here, when he diſtributed amongſt his great Officers in the Army & his Soldiers as much of his Conquered Lands, as *Ordericus Vitalis* hath related it, Seventy Thouſand Knights Fees, who in regard of their ſervice for the defence of the King, had a Privilege by the Kings Writ for them and their Tenants to be free *ab omni Talagio* from all Taxes, which priviledge or acquittal ſaith Sr *Edward Coke* diſcontinued. Of which our Feudall Laws the *Brittains* the more ancient Inhabitants of *England* as well as the *Brittains* in *Armerica* in *France*, now known by the name of the Duchy of *Brittain*, cannot be believed to have been Ignorant, when the Father of our Victorious *Arthur*, King of *Brittain*, was a *Beneficiarius*, and held his Lands in *Cornwall* of the King *in Capite*, unto whoſe Kingdom were appendant the large Dominions of *Norway*, and the Iſlands *ultra Scaniam, Iſlandiam, Ireland, Curland, Dacia, Semeland, Winland, Finland, Wareland, Currelam, Flanders, & omnes alias terras & Inſulas Orientalis Oceani uſque Ruſſiam, Et in Luppo etiam poſuit orientalem metam Regni Brittaniæ*

tania & multas alias Insulas usque Scotiam & usque in Septentrione quæ sunt de appendicis Scaniæ quæ Noricena dicitur, and that Kingdom of *Brittain* had so large an Extent, and the King of *Brittain* such a *directum Dominium* therein, that upon an exact Search and inquiry into the Memorialls, Antiquities Annalls, and Historians thereof, it was evident that in the Times of *Ely* and *Samuel*, after the Siege and Destruction of *Troy*, *Brute* came into this *Island*, called it by his name, and divided his Kingdom to his 3 Sons, *Loegria*, now called *England*, to his Eldest, *Albania*, since called *Scotland* came to the 2 and *Cambria* or *Wales* unto his 3 Son *Camber*, after whom was *Arthurus Rex Britonium famosissimus*. In fine *LL. Edwardi Regis.*

Who subdued a great part of *France*, and those his Noble Acts were not unknown unto some of the *Roman* Poets and Historians, and the Laws used here in his Time, may with great reason be understood to have been the same which the *English* or *Saxons* our later Ancestors, *Fletibus & Precibus*, with supplications washed in Tears, obtained of the *Norman* Conqueror to be left unto them, as King *Edward* the *Confessors* Laws for his Justice and Holiness reputed to have been a Saint, and together with the *Mercenlage* or Laws made by *Mercia* a Queen of *Mercia*, or the Borders or Confines of *Wales*, ought to be esteemed the same aggregate Laws, which K. *William* the *Conqueror* of the *Brittains*, *Saxons* and *Normans* after they had began to Intermarrie, and were become, as it were, *Populus unus & Gens una*, were certified by the greatest, most universall and most Solemn Jury and verdict that ever was Impannelled or made use of in *England*, and under the strictest and severest Charge, not by Judges delegate but by the King himself, and a *Conquering King* that had *omnia Jura et terras in manu sua*, which he did *Consilio Baronum suorum in Anno quarto Regni sui* cause to be Summoned through all the Shires & Counties of *England* of & out of the *Nobiles sapientes et in Lege cendites*, *ut eorum Leges, et Jura, et Consuetudines ab ipsis audiret*, Whereupon *in singulis totius patriæ Comitatibus*, a *Jury* of 12 men, qualified as aforesaid *Jure Jurando*, *coram ipso Rege*, before the King himself, no ordinary Judge but the Highest under God, *quo ad possent recto tramite incidentes*, neither turning on the Right hand nor the Left, *legum suarum & Consuetudinum suarum patefacerent*, neither omitting or adding any thing by fraud or prævarication, yet the King seeming better to approve of his *Norway* and *Danish* Laws, which in many things, *affinitate Saxonum*, seemed to be the same with the *Norway* Laws except in some small difference *in Præfatione LL. Edwardi Confessoris.*

difference in the heightning of the Fines and Forfeitures, which when the King had heard read unto him *maxime appreciutus eſt, & præcepit ut Obſequerentur per totum Regnum*, for he ſaid that his Anceſtors *& omnium Baronum fere Normannorum Anteceſſeres Norwigenſes exticiſſent, Et quod de Norwicis olim veniſſent, Et hac Authoritate leges eorum cum profundioſes & honeſtiores omnibus aliis eſſent præ cæteris Regni ſui Legibus aſſerebat ſe debere ſequi & obſervare* (and the *Saxon* Laws being in the *Saxon* language and he and his *Normans* for ſome Generations paſt alltogether ſpeaking *French* written in another Idiome and manner could not be thought ſo ſoon well to underſtand) *Quippe cum aliærum legibus Nationum Britonum, ſcilicet, Anglorum, Pictorum & Scotorum præponderaſſent*, as if he or his *Normans* having ſo lately Conquered the Kingdom of *England*, and he had after ſome time returned into *Normandy*, whether he had Carried ſome of the moſt Potent of the *Engliſh* Nobility as Pledges and Hoſtages.

Ordericus Vitalis deſcribit Guilielmi Conqueſtoris.

And after ſome tarrying there, and time expended in the ſetling of his Affairs, returned into *England*, where he found ſome Mutinies and Rebellions, might not, in a mind wholly imployed in the Study of War & Glory be allowed ſome parcell of Ignorance, or ſo much as to make him & his *Norman* Adventurers miſtake & not underſtand that the *Feudall* Laws, and thoſe of *Norway* were the ſame for the moſt part with the Laws of the *Saxons* or their Prædeceſſors, or their often invading and contending neighbors the *Picts* and *Scots*, or the *Saxons* ſo impoveriſhed and affrighted, as not to be able to declare unto him that the Laws of St *Edward* the Confeſſor were the ſame which the *Conquerers Compatriots* the *Norwigians* were governed by, or might not, ſo well as they ſhould, have underſtood their own Laws or the *Feudal* Laws, which their *Northern* or *German* Anceſtors had ſo much affected to be ruled and governed by, more eſpecially when thoſe Laws ſo Sacred of *St Edward* the Confeſſor had by reaſon of ſome diſcords in *England* layne, as it were, hid and aſleep, about Sixty Eight yeares from the Reign of King *Edgar* untill the Reign of King *Edward* the *Confeſſor*. Which the Conqueror himſelf had then only as the learned Sr *Roger Twiſden* ſaith, *ut melius unicuique adminiſtraret Anglicam locutiorem Sategit ediſcere, Et in perceptione hujus durior ætas illum compeſcebat* endeavoured to learn; which Verdict or Carefull Enquiry, in the poor Conquered Engliſhman's greateſt Concernments in this world, next unto their greateſt in the next being preſented to him, he *Concilio habito precatu Baronum* granted their

Sr Roger Twiſden in his Preface to Williams the Conqueror's Laws.

Petition,

Petition, *Thomas* Archbiſhop of *Canterbury* and *Maurice* Biſhop (of London) *Scripſerunt propriis manibus omnia iſta prædicta per præceptum prædicti domini Regis Gulielmi, Et ex illo igitur die multa Authoritate veneratæ, et per univerſum regnum Corroboratæ, et Obſervatæ ſunt præ ceteris patriæ legibus leges Edwardi Regis Sancti.*

Inſomuch as King *William* the Conqueror, upon a better underſtanding that thoſe Laws of St *Edward* were one and the ſame or very near of kindred unto the *Norway* or *Daniſh* Laws, had not only given and diſtributed amongſt his great Officers and Soldiers *Seventy Thouſand Knights Fees*, in lands of a great value to be holden of him his Heirs and Succeſſors *in Capite*, but in his own Laws afterwards made other Feudall Laws as additions thereunto, as *de Clientari ſeu Feudorum Jure & Ingenuorum Immunitate Ca.* 55. *de Clientum ſeu vaſſallorum præſtationibus Ca.* 58. *nequis Dominio ſuo debitas ſuas præſtationes ſubſtrahat Ca.* 34. *de fœmina granida quæ capitali ſupplicio damnatur Ca.* 35. (which was a Law either before or ſince brought hither by the *Phenitians* or *Roman* Colonies, *de relevio eorum qui Clientes pendent, c.*40. And in the *decretis* made by him, it is mentioned, that *cum principibus ſuis conſtituit poſt Conquiſitionem Angliæ* (not *Conſtituerunt*) that next unto the Reverence of God and Faith in Chriſt, he would have inviolably obſerved and kept *pacem & ſecuritatem, Concordiam, Judicium & Juſticiam inter Anglos & Normannos, ſimiliter inter Francigenes & Britones Walliæ & Cornubiæ, & Pithos & Scotos Albaniæ, Similiter Francus & Inſulicolas omnium Inſularum & provinciarum quæ pertinent ad Coronam & dignitatem, & ad defenſionem & obſervationem, & ad honorem Regis infra omnes ſibi ſubjectos per univerſam Regni Britania firmiter & inviolabiliter, Statuimus etiam ut omnes liberi homines fide & Sacramento affirment quod intra & extra univerſum Regnum, quod olim vocabatur Regnum Britanniæ, Willielmo Regi, Domino ſuo, fideles eſſe volunt, Terras et Honores ſuos omni fidelitate ubique ſervare cum eo & contra Inimicos & Alienigenas defendere volumus. Et hoc firmiter precipimus & Concedimus, ut omnes liberi homines totius Monarchiæ Regni noſtri prædicti habeant & teneant terras ſuas, & poſſeſſiones bene, & in pace, ab omni exactione injuſta, & ab omni tallagio, Ita quod nihil ab eis exigatur vel capiatur, niſi ſervitium ſuum liberum, quod de Jure nobis facere debent & facere teneantur, & prout Statutum eſt eis, & illas a nobis datum & Conceſſum Jure Hæreditario in perpetuum per Comune Concilium totius Regni noſtri, Statuimus & firmiter præcipimus ut omnes*

L.L. *Gulielmi Conqueſtoris.*

Boemus demonſibus Gentium.

Decreta & leges Gulielmi Conqueſtoris & emendationes. Quæ poſuit in Anglia quæ olim vocabatur Britannia.

Comites, Barones, & milites, & ſervientes, & univerſi liberi homines totius Regni noſtri prædicti habeant & teneant ſe ſemper bene & in armis & equis, ut decet & oportet, & quod ſint ſemper prompti & parati ad ſervitium ſuum integrum nobis explendum et peragendum cum ſemper opus abfuerit ſecundum quod nobis debent in feodis & tementis ſuis ſicut illis ſtatuimus per Commune Concilium Regni noſtri prædicti, & illis dedimus & Concedimus in feudis Jure hæreditario hoc præceptum non ſit violatum ullo modo ſuper forisfacturam plenam, ſtatuimus etiam & firmiter præcipimus ut omnes liberi homines totius Regni prædicti (which could not be underſtood to have been any other then his *Norman* Commanders and Nobility for the moſt part if any *Engliſh*) *ſint fratres conjurati ad Monarchiam noſtram, & ad Regnum noſtrum pro viribus ſuis & facultatibus contra omnes pro poſſe ſuo defendendum, & viribus ſervandum, & pacem & dignitatem noſtram & Coronæ noſtræ integrum obſervandum, & ad Judicium rectum & Juſtitiam conſtanter modis omnibus pro poſſe ſuo ſine dolo & ſine dilatione faciendum.*

Which being made at *London*, was without any limitation or reſtraint as to the number of Days, wherein the Service was to be performed, or how long to be at their own Wages, or their Kings was not at all expreſſed in that Kings originall Grant, Law or Conſtitution, for although the Fortune or Fate of a War in thoſe bold magnanimous and hardy Times, wherein they diſdained to tarry for the effects of Stratagems, Bribery, and Treacheries then little or not at all, but now altogether or too much practiſed, but univerſally and abſolutely it being as unſafe for a King as his People and Kingdome to undertake to foretell the period of an Inteſtine Rebellion, the power and malice of a Forreign Enemy or the ſad and often Changes and events of War, and to leave a King without the Power of a King and aid of his Subjects, and be a King only for Forty Days, and upon every Occaſion or miſchance of War ariſing from Forreign Princes or his Subjects, either by Sea or Land, be no longer a King then for ſo ſhort a Time as if the Subjects Loyalty were to be put under ſuch a limitation, and if in that Time he cannot gain the Victory, muſt run into an hole and hide himſelf in an hourly expectation of Death, and a worſe Deſtiny then that of the once mighty King *Nebuchadonozers* being changed into an Ox, and put to graſs untill the King of Kings (not his Subjects or People) ſhould be pleaſed to reſtore him to his former ſhape and dignity, which could never be underſtood to be the meaning of our *William* the *Conqueror*.

And

And if *praxis* be, as it ſhould be, *de Jure Gentium* accompted to have been *optimus legum Interpres*, our Tenures *in Capite* and by *Knight* ſervice, however our very learned *Littleton* a Judge of the Court of Common Pleas, who is by Sr *Edward Coke* his Commentator believed to have written his book of Tenures in or about the 14th Year of King *Edward* the 4th. and Sr *Edward Coke* without giving us any Record, Authority or poſitive Law to warrant or build up their opinion for any ſuch limitation, yet it doth not appear, but needeth ſome further Confirmation. For the learned Sr *Robert Cottons* Collection out of the book of *Dooмeſday* hath taught us, that *Oxonia Civitas tempore Regis Edwardi Confeſſoris geldebat, niſi quando Londonium & Eboracum & Wintonia geldebant, & hoc erat dimidia marci argenti ad opus mil quando expeditio ibat per terram aut per mare, ſerviebat hæc Civitas quantum 5. hydæ terræ, Barneſtaple vero & Lydeford & Totendis ſerviebant quantum ipſa Civitas.*

Sir *Edward Coke* in *prœmio* of his Inſtitutes or Comment upon *Littletons* Tenures.

Sr *Robert Cottons Collections. M. S.*

Quando Rex ibat in expiditione Burgenſes 20. ibant pro omnibus aliis, vel 20. libras dabant Regi ut omnes eſſent liberi.

Omnes manſiones, quæ vocantur murales, tempore Regis E. libera erant ab omni expeditione & muri reparatione, propterea vocantur murales & Manſiones quia ſi quis fuerit, & Rex præceperit murum reficerit.

Civitas Lodoceſtria tempore Regis Edwardi reddebat per Annum Regi 30. libras, ad numerum de 20. meræ & 15. Sextarios mellis, quando Rex ibat in Exercitu per terram de ipſo Burgo, 12. Burgenſes ibant cum eo, Si vero per mare in hoſtem eat mittebant ei 4. equos de eodem Burgo uſque Londouium ad comportanda Arma vel alia quæ opus eſſent; for that great Conqueror, as Sr *Roger Twiſden* hath rightly and Judiciouſly obſerved, had 3 things after that his Conqueſt in his purpoſe, Cares and intention, 1. *ut proſpicetur Regno de neceſſariis ad bellum*, 2. *ut Satisfaceret Gallis periculorum ſuorum & laborum Sociis, Ita tamen ne Anglis ea occaſione præberetur Juſta offenſionis cauſa qua reddi poſſent ad inſurrectionem, ſeu rebellionem paratiores*, 3. *ne Coloni utpote ſine quibus Agricultura exerceri non poterit.* *William Rufus* and King *Henry* the Firſt his Sons kept and eſtabliſhed the ſame without any leſſening or alteration as to the Time or ways, King *Stephen Henry* the 2. and *Richard* the Firſt did the like, and King *Richard* the 1. wanted not an aid and money for his redemption out of his Captivity, ſo did King *John* in his generall muſter and array of all the Forces of *England*, *ſub pœna Culvertagii*, of Shame and Reproch like *Deborahs Curſe ye Meroz* againſt

Sr *Rog. Twiſden in præfatione ad leges Gulielmi Conqueſtoris & Henrici. 1. filii ejus & Gervaſuis Tilburienſis.*

againſt the feared Invaſion of the *French* King, neither was it altered by King *He.* the 3. who *mandavit vice Comitibus Wiggon. Staff. Salox & Warr. quod venire fac. ad ipſum Regem in exercitu ſuo uſque Bery in Wallia deſingulis duabus Hydis Terræ Com. ſuorum unum Hominem cum una bona ſecuri &c. habentem ſecum victualia pro xs. Diebus,* *Edward* the firſt did not underſtand himſelf to be manacled as unto Time and Wages, when he told *Roger Bigod,* Earl of *Norfolk, Earl Marſhall* of *England,* refuſing to go with him to War into *Flanders, he ſhould go or be hanged,* and afterwards ſeiſed the great Eſtates of *Bohun* Earl of *Hereford* and *Eſſex* Conſtable of *England,* and *Gilbert* Earl of *Glouceſter* and *Hertford* and made them glad to accept his Pardon, and in the 7th, Year of his Reign the *Prælates, Earls, Barons and Commonalty of this Realm* did in Parliament Declare *that they are bound to aid their King at all Seaſons* (no Time or Manner at all limited) King *Edward* the 2. left it as he found it, and in hte 3. Year of the Reign of King *Edward* 3. it was in Parliament declared, that *uone ſhall by any Writing bebe bound to come Armed to the King, for that every Subject is to be at his Commandment,* that in his buſy Reign of gathering Triumphant Lawrells, a Proclamation was made *in ſingulis Com. Angliæ quod omnes homines habentes literas Regis de pardon felon. &c. cauſa guerræ Scotiæ ad Regem veniant*; and our Kings *Richard* the 2. *Henry* the 4th, 5th, and 6th, *Edward* the 4th, and *Richard* the 3. continued them nothing being ordered to enervate that Conſtitution or Law of *William* the *Conqueror,* it was by an Act of Parliament made in the 11th, Year of the Reign of King *Henry* the 7th, ordained *that none that ſhall attend upon the King and do him true Service ſhall be attainted, or forfeit any thing by attending upon the King in his own Perſon, and to him true and faithfull Allegiance, or in any other place by his Commandment, withiu the Land or without ſhall do and Perform,* And in the 19th, Year of the ſaid Kings Reign, by an Act of Parliament it was ordained declared & enacted by the advice of the Lords Spirituall and Temporall in Parliament aſſembled, (no Commons therein mentioned) by Authority of the Same who *ſhall forfeit that doth not attend the King, being in his own Perſon, in his Wars either within the Kingdom or without, or depart from his ſaid Service without the Kings Licence in Writing, under his ſign Manuall, or Signet or Great or Privy Seal or generall Proclamation,* there having been no Repeal or limitation afterwards of that eſpeciall Service either in the Reign of that King or of King *Henry* the

Ro. clauſ. 12. H. 3. m. 2. in dorſo.

Sam. Daniel Hiſt of Edward the 1. & in ro. clauſe & pate. E. 1.

7. E. 1.

3. E. 3.

Ro. Clauſe. 8. E. 3. m. 27. in dorſo.

11. H. 7. ca. 1, & 19. H. 7.

the 8th, *Edward* the 6th, Queen *Mary*, Queen *Elizabeth*, King *James* and King *Charles* the 1. And our Annalls, Hiſtorians and Records can apparently evidence that Queen *Elizabeth*, in the deſigned Invaſion of *England* by the King of *Spain* with a formidable Navy and Army in the Year 1588. did not by any of her Councells, Judges, Delegates or Lawyers, great or ſmall limit in the raiſing of Forces, either by Land or Sea, the Numbers, Time of Continuance or Wages, and it hath been a part of the *Jus Gentium* or Law of Nations not to contradict, but allow the Seizing of Ships of Merchants and Strangers in the Ports or Havens of a Prince, like to be Aſſailed and in Danger of War, when every man ought to fight *tanquam pro Aris & Focis* And that magnanimous, great and wiſe Princeſs could not without that Power inhærent in her Monarchy have aided with Men and Arms, the great *Henry* King of *France*, and the diſtreſſed *Belgick* Provinces; checked the Papall Powers and Plots, and Planted and Supported the Proteſtant Religion in moſt of the parts of *Chriſtendom*, holding by a ſteddy hand the *Ballance* thereof, and ſo well underſtood her own Rights and the true methods of Government, as ſhe blaming ſome of the Houſe of Commons for flying from their Houſes near the Sea Coaſts, in the affright of the Spaniſh Invaſion, did Swear *by the Almighty God, that if ſhe knew whom in particular, ſhe would puniſh and make them Examples, of being the Deſerters of their Prince and Countrey.* King *James* asked no leave of his Subjects in Parliament to Raiſe and Send Men and Arms into the *Palatinate*, being his Son in Law's Inheritance, for the Defence thereof under the Command of *Sr Horatio Vere*, and an Army for the ſame purpoſe alſo under the Command of *Count Mansfelt* a *German* Prince, King *Charles* that bleſſed Martyr by a Company of accurſed Rebells furniſhed to Sea 3. ſeverall Armies and Navies in aid of the diſtreſſed Proteſtants at *Rochell* in *France*, in whoſe Reign all the Judges of *England* ſubſcribed to their Opinions, that the King was *to prevent a danger impending upon the Commonwealth, might impoſe a Tax for the furniſhing out of Ships, and was to be the ſole Judge thereof*, which had but a little before been inrolled in all the Courts of Juſtice in *Weſtminſter* and in the *Chancery* as the opinion of all the Judges of *England*, under their hands, which in the leavying but of *Ten Shillings* being Cavilled at by Mr *Hamden* a man of 3 or 4000l. *per Annum* one of the grand *Sedition-Mongers*, who as a Member of the Houſe of Commons in Parliament had by an Execrable Rebellion

Aurelius Townſend proceedings in Parliament in ſome of the laſt Years of Reign of Qu. Elizabeth.

Caſe of Ship Money argued in the Exchequer Chamber.

almoſt Ruined & deſtroyed *England*, *Scotland* and *Ireland*, to pacify which that Pious Prince being willing to ſatisfie their ſcruples, as much as the Laws and Conſtitutions of the Kingdom as he hoped might Allow, and being a Principall part of the Monarchy, the *Arcana's* whereof Queen *Elizabeth* believed not fit to be ſacr ficed unto Vulgar and Publick diſputes, and hammered upon the Anvills of Lawyers arguments, tending unto more *what could*, then *ſhould be ſayd*, and therefore did in ſome of her grants or reſcripts inſert the words as King *James* afterwards did, *de quo diſputari nolumus a maxima*, which the great *Henry* the Fourth of *France* in his Government ſtrictly obſerved, and which every Sea or Land Captain hath through many Ages and traverſes of the world ever experimented to be neceſſary and uſefull ; Inſomuch as licence was given to frame a Caſe or queſtion thereupon, that never was before done in *England* through all its Changes of our *Monarchs*, under the *Britiſh*, *Roman*, *Saxon*, *Daniſh*, and *Norman* Races, or in all the Empires and Kingdoms of the habitable World, for amongſt the *Iſraelites* there was an outward Court for the Common People, there was a *Sanctum Sanctorum*, there was no diſpute ſuffer'd, about their *Urim* and *Thummim*, or the dreadfuly delivered Decalogue, and the *Ancilia* and *veſtall* fire at *Rome* were not to be pried into by the Common People, neither would the vaſt *Ottoman* Empire ſuffer the ſecrets of *Mahomets* Pidgeon, or the laying the Foundations of their Religion or *Alcoran* vaſt Empire to be diſputed, or expoſed unto vulgar Capacities, that would ſooner miſtake or abuſe then aſſent unto truth or the moſt certified reaſon. In the way unto which our fatality and ever to be lamented ſad Conſequences that followed the late long Parliament Rebellion, Mr *Oliver St John* and *Mr Rober Holborne*, two young Lawyers, affecting a Contrariety to the approved ſence and Interpretation of our moſt known and beſt old Laws, and to *Criticiſe* and put doubtfull Interpretations upon the ever to be reverenced and wholſome Laws and Conſtitutions of the Kingdom, did to that end expend much Time in the ſearch of all the Records of the Kingdom : The firſt of which laboured to propagate his deſign of Ruining the Kings Power of taxing Ship Mony, and leavying it in Caſe of neceſſity for the defence of his Kingdom and Subjects, but Mr *Holbornes* better opinion after all could not but leave him an earneſt Aſſertor of the Kings Rights and Power therein, So as of the 12 Judges upon the debates of the Kings learned Councell and the Peoples Lawyer *Mr St John* and others

diſpute

diſpute arguing *Pro and Contra*, One againſt the Other, Ten of the Judges giving their Judgements therein againſt the ſaid *Mr Hamden*, that that unhappy aforeſaid *Ten Shillings* ought to be leavyed upon him, Notwithſtanding Juſtice *Hattons* and Juſtice *Crokes* diſſenting opinions, who did afterwards forſake that begun and after long continued paths of Rebellion.

And that good and great man, that prepared the Act of Parliament for the Converting Tenures *in Capite* into free and Common *Socage*, that took away the ſtrength of our *Iſrael*, and worſe then the folly or ill managed love of old *Pelias* Daughters to make their aged Father young again, whether miſled by his friend *Oliver St John* or overmuch in love of the well poyſed temper of his ſo much admired the *Roman Pomponius Atticus*, needed not to have been ſo over Severe in the aſtringent penalties nailed and faſtned upon that Act of Parliament and the breaking of that *Socage* Act, by adding to that much better of the tenures *in Capite* no leſs then the affrightfull penalty of that of a *Præmunire*, when it was not likely to be ſo great a Stranger to his memory, that the Learned Judges of the Kingdom had at ſeverall times in the Reigns of King *James* and King *Charles* the Martyr declared their well weighed opinions, that the Tenures *in Capite* were ſo fundamentall a part of our Laws, as no *Act of Parliament* could be able or have force to repeal, change or take them away. And that in all the *Icarian* attempts and high Flights of the long *called Parliament* Rebellion, and even in their *Hogen Mogen* unparaleld *Nineteen Propoſitions* made unto their King, which, if granted, had taken away from him all the *Power of a King and a Father, or to govern or defend* his Subjects. Untill in that much miſtaken Erroneous Act of Parliament ſaid to have been made in *Feb.* 1645. by ſome of the Lords & Commons of that which ſhould not have been called a Parliament when they made War & had like ſtrange Subjects and Adviſors beaten away their King, neither had there been any deſign of abrogating the Tenures *in Capite* or of that kind in all the *Britiſh*, *Roman*, *Saxon*, *Daniſh* or *Normam* times, to annull or diſſolve ſo ſtrong and ſolid a Foundation as our *Feudall* Laws, nothing in the Rebellion, Force, and ſtrange unkingly reſtrictions Articles and agreements put upon King *John* at *Running Mede*, no grievance by the Tenures *in Capite* or by Knight-ſervice certified upon any the Writs ſent by King *Henry* the 3. unto all the Sheriffs of the Counties and Cities of *England* and *Wales* to Elect 4 Knights of every County *Ro. Clauſ H.* 3. and

and City to certify to the King and his Baronage their Grievances: nothing in the forced Parliament and Oaths upon King *Henry* the 3. and his Son Prince *Edward*, in the 42. Year of his Reign, nothing in his direfull proceſſion and waking with his Parliament of Prælates and Nobility through *Weſtminſter-Hall* unto that Abby Church, with burning Tapers, Curſes and Anathema's againſt the Infringers of *Magna Charta* and *Charta de Forreſta*, then and yet holden *in Capite*, with many of our Liberties Fundamentall and Feudall Laws therein contained, nothing deſired or ordered to be taken away of them or any of them, no mention of them in the arbitration or award made by the King of *France* betwixt that King and his Rebell Barons, or when *Simon Montfort* and his Partners kept him in their powerfull Army a Priſoner about a Year or a Quarter, no Complaints or grievances againſt thoſe Tenures *in Capite*, in all thoſe multitudes of other ſuppoſed grievances, nothing in the Petition of Right, and 30 times confirmation of *Magna Charta* and *Charta de Foreſta*, as if they could never have enough of them, nor Reformation deſired in and through all the Clowniſh Rebellions and Inſurrections in *England*, in the Times of *Wat Tiler*, *John Ball*, *Jack Cade*, *Ket* and others.

And therefore whilſt *theſe Underminers* of our long lived Monarchy, and in that their own happineſs, have gratified their fond feavouriſh fancies in procuring a Diſſolution of as many as they could of our Tenures *in Capite*, for all if any they could not with the Coſtly expence of 48. *Millions* ſterling in mony, beſides an uncomptable and unvalued damage of four hundred thouſand Men Women and Children ſlain or Maſſacred whole families ruined or for ever Crpled, Heaven angry and incenſed, Hell gaping, Religion torn in more then one hundred pieces, and all for want of the Care, Proviſion, and Protection, that the deſpiſed Mother Church of *England*, like the Voice that was heard in *Ramah*, *Rachel* mourning for her Children that they were not, our Shames Publiſhed in the Streets, of *Gath and Askalon*, in the Time of its peace, and the Sins of Rebellion and Witchcraft, have as the *Egiptian* Locuſts covered & overſpread the face of our heretofore fruitfull Iſland.

And the Protection and Proviſion, uſually made by our Tenures *in Capite* for Younger Children as well as the Eldeſt affords them no better a care then to leave them when the Mother is after the Fathers Death by ſome *Debaucht*, *Rooking*, or *Gamiug Coxcomb*, made a fool of and Married again,

again, as very often they will, are like Lambs left as a Prey unto the Wolves or Foxes; the Second Husbands, who, if the Mother have Children by him, will be as too many are well content to help to *Fricasse* the first husbands Children to make Portions or Estates for the Second, so as if it be Enquired where is now the *Court of Wards and Liveries* which hath been so pretendedly without any Just Cause at all complained of, they may find every where a *Court of Wards and Liveries* lamentably governed by the Fathers in Law of *England, Wales, and Ireland.*

They might do well to make more hast then they have done to repentance & consider how much more *then nothing* at all the Nation was beholding to those *overtures*, as much as they could, of the Monarchy & *Tenures in Capite*, have been to those *Commonwealth Erecters* have deserved of the People and those whom they pretended to represent in Parliament, when instead of *bread they have given them Stones*, and of *Fishes Scorpions*, and to shew the profoundness of their wisdom did as wisely as those that attempted to drown *the Eel*, when upon a great & serious consult they may Easily discover no better effects or fruit of their overchargeable expences enforced upon the people to their own great and Villanous gain, and the ruin spoil and inestimable damage of our 3, before that, most happy flourishing redoubtable Kingdoms.

When that Act of Parliament, for taking away the Tenures *in Capite*, doth but as much as it could convert them into *Free and Common Socage* (without any mention of *pro omnibus servitiis*) and the Law made by King *Ina*, who Reigned here from the year of our Savior 923. untill after some part of the Year 940. which is not specially repealed, by that Act of destroying as much as it was able the Tenures *in Capite* and by Knight Service did ordain that *Scutatorum nullus ex pelle ovina Scutafabricatur, qui secus fecerit 30 solides, mulctator pro singulo quoq; aratro binos alat quisque ornatos atq; instructos Equites*, and *in a Tenure in Free and Common Socage Fealty is a duty and service inseparable*, as *Littleton* saith and signifieth (although as he putteth the Case, is in the Ceremony of the doing thereof sometimes different from homage) for when the *Tenant doth fealty unto his Lord he shall hold his hand upon a Book and shall Swear that he shall be faithfull and true to his Lord, and shall bear him faith for the Lands which he holdeth of him*, and fealty is derived *a fidelitate*, (*Feltman* bestowing upon an originall of the like nature *a fide*) and *Escuage draweth unto it homage, and Homage*

L.L. In. 15. & 16.

Littleton tit. Fealty. sect. 92. 93.

Feltman trac. de Feudis. sect. 2.

mage draweth unto it fealty, for fealty is incident to every manner of Service, unleſs it be in the Tennre of *Franck-Almoigne*, and the Tenures *in Capite* and *by Knights Service* (ſome only excepted) being transferred into *Free and Common Socage* without ſaying, *per fidelitatem tantum pro omnibus ſervitiis*, may, notwithſtanding the forebidding or rejection of of *Homage* and all other Incidents of Tenures *in Capite* and *by Knights Service*, render the *fealty* incident unto free and Common *Socage*, by our Laws to amount unto as much as that which the framer of that Act of Parliament hoped to extinguiſh, by Converting, thoſe Tenures *in Capite* as much as he could into Tenures *in pede*, which ſhould have been beleived to have been very fundamental and dangerous to alter, when the wiſdom of the *Engliſh* and *Scottiſh* Commiſſioners authoris'd by an Act of Parliament in the Reign of King *James* who had a great deſire to unite the Kingdoms of *England* and *Scotland* in their Laws and Religion, as well as they were in their neighbourhood, and to have them to be in Subjection under one and the ſame King and Sovereign, were after long and learned Conferences and diſputes conſtrained to forſake that impoſſible to be atchieved Enterprize, and our great Incendiary Mr *John Pym* could in the Year 1641. harangue in that unfortunately ſeditious Parliament that our Laws, which he might or ſhould have known, as to a great part of them, to have been compoſed and derived unto us from our *German* and *Northern* Progenitors, Feudall Laws intermingled with the Civill and Cannon Laws with ſome municipall Laws *& Conſuetudines non Malos in ſe* as *Gavel* kind and the *Reſcripts, Edicta, & mandata principum, Reſponſa & adjudicata Judicum & prudentum*, not diſſonant or contradicting each other the Laws of God an rules of Right Reaſon *were the Peoples Birth-Right*, and our perſecuted, untill he was Murthered, bleſſed Martyr King *Charles* the Firſt did in the 3. Year of his Reign, when he ſigned that which they ſtiled the Peoples *Petition of Right*, declare unto them that *his maxime is that the Peoples Liberties ſtrengthen the Kings Prerogative, and that the Kings Prerogative is to defend the Peoples Liberties*, and may when all is done, if well and truly weighed in the Ballance of Right reaſon and underſtanding, and what hath hapned and may come to paſs hereafter, eaſily diſcern that in *England* there never was ſuch a Confuſion and overturning of our Laws and Ancient Monarchick Government, through all the Succeſſions of our *Britiſh, Saxon, Daniſh*, and *Norman* Kings, as hath been in *England* ſince the beginning

Calvin's Caſe, *Cokes* 7 *Relat.* and Lord Chancellor *Ellesmere's* argument upon the Poſtnati, Reports and Regiſter of Writs & Archives & Records.

3 *Car. primi.*

ning of that famouſly infamous Rebellious Parliament and their Undermining of our Laws and Libeties and turn all into an *Anarchy* that they might gain a power to enrich themſelves by the ſpoil of 3 Kingdoms, and ruining of as many as would not be as Wicked Rebells as they had been.

And that when his Majeſty had Releaſed unto them the arrears of his profits by his Tenures and Court of *Wards and Liveries*, a *Million* and a half Sterling, and in his pourveyances, *Nine Hundred and Fifty Thouſand Pounds*, It was hugely præjudiciall to the King and beneficiall unto his Subjects, too many of whom had Rebelled againſt his Royall Father, perſecuted and Murthered him, Hunted and would have extirped his Royall Poſterity, And that it can be no otherwiſe accompted to be then a moſt Barbarouſly Ingrateful and unworthy Act of the Nation and People of *England*, after many Knights fees and Lands freely given and granted by the Kings Royall Progenitors to their forefather and their Heirs, to be holden by Knight-ſervice and *in Capite*, of which if the *Sixty Thouſand* Knights fees and more reckoned by ſome Authors ſhould be no greater a number then *ten thouſand*, and valued but at 20 *l. per Ann.* as they may be conjectured to have been accompted in *Anno.* 1 *Edwardi.* 2. they would amount unto 200000 *l. per Ann.* and if each of them have ſince increaſed but unto 300 *l. per Ann*, which may be thought to be now the leaſt improvement, might amount in yearly value unto 3 *Millions* Sterling, (and if that ſhould be multiplyed 60 times more as *Ordericus Vitalis* reckonet it, the Yearly value thereof might ſwell unto *one Hundred Eighty* and 3 *Millions* Sterling,) beſides great quantities of other Lands freely granted in the ſeverall Reigns of his Majeſties Royal progenitors, unto others of them & their heirs to be holden of them *in Socage*, beſides 200000 *l. per An.* or a very great Yeerly ſums of Mony neceſſarily expended upon his Military Guards for the defence of himſelf & his people againſt Sedition and Rebellion-mongers more then his Royal Father & progenitors needed to have done if he had kept entire his ſaid eminent and Legall Rights of Tenures *in Capite* and by *Knight Service* to endeavour to extinguiſh the Right uſe of them, and forget their great and very great obligations to their Prince and Common parent, and Royall progenitors, and take away from our Kings the means whereby they ſhould protect and defend themſelves and their Subjects from damage and Injuries forreign and domeſtique.

Fabian Phillipps, the miſtaken recompence given to the King, for the releaſe of his *Tenures in Capite* and *Knights-Service* and *Pourveyance*. P. 49. and 50.

And thoſe *Tax improvers* and *Advantage Catchers* can

(as

(as if that were not ſufficient) make it as too many of their Actions and buſineſs to cozen and beg all they can from him, and inſtead of never ceaſing to give him thanks for breaking the barrs of an *Hell* of Arbitrary power and ſlavery, wherein their Counterfeit *Commonwealth's* men by their perjuries and Hypocriticall Rebellion had brought them, And their Cheating *Man of Sin Oliver Cromwell* had by his *Inſtrument* of his own making lockt and bolted them faſt enough, as he hoped, with *a Domine quid retribuam*, what ſhall we render for all his benefits, make it the greateſt of their care and Imployment not only to take and keep from him all they can, even at the ſame time when they had obteyned of him an unparalleld Act of Indempnity and *Oblivion*, to pardon and forget all their Treaſons and offences committed againſt him, and his bleſſed Father, which in a ſmall kind of Calculation may not unprobably be believed to amount unto *Sixteen Millions* Sterling in arreres of his own Revenue, and 2 or 3 *Hundred Millions* Sterling at the leaſt for the forfeitures, which our Laws would have given him with ſome Mercy and Moderation to boot for ſo ſmall a Recompence as during his life in the Moyety or one half of the Exciſe to his Heirs and Succeſſors to be drawn out of the Groans Tears Complaints and ſorrows of which the main part of the Common People who never did or are like to hold any Lands of our Kings *in Capite* or by *Knight Service*, And ſhould not have forgotten how they promiſed him to be his Tenants in *Corde*, and with what a Princely and Fatherly affection he told their Repreſentatives that *he was ſorry to ſee ſo many of his Good People come to ſee him at Whitehall, and had no Meat to feed or entertain them*, yet when he had bereaved himſelf of that grand and continuall part of the ſtrength and ſupport of his Crown, Power and Dignity, and thoſe entire Rights of his Monarchick Government; which our prudent ſecond *Fabius*, ever to be prailed and remembred, from Generation to Generation, the late *George Monke*, Duke of *Albemarle*, for his military wary Conduct thorough almoſt inſuperable Difficulties, without hearkning to the *Syren* ſongs of thoſe that pretended to be for a Common wealth or being tempted or deluded to reſtore his Majeſty to a *Cripled Monarchy*, as the men of the Rebellious *Rump* or no Parliament with their Jugling Covenant, or as many Faces as they ſhould have occaſion to impreſs or ſtamp upon it, would have perſwaded him to have done, and that great *Hero* denyd to do, And that ill adviſed framer of that Unhappy Act of Parliament to cut or take away the Arteries, Nerves, Sinews and Liga-

ments

ments of the Crown and head of our body Politick, and in the doing thereof alſo might have bereaved the Nation of the ancient and honourable aſſiſtance of the Houſe of *Peers in Parliament*, which of Ancient and long time Immemoriall have been, as they ſhould & ought to be, the firm & ſtrong pillars & ſupports of our Monarchick Government, had not the Earls of *Oxford* and *Strafford* Magnanimouſly as a Prologue to its Reſtauration come to the Houſe then called the Houſe of Commons in Parliament, wherein that great *Monck*, that *Unus homo nobis qui cunctando reſtituit rem*, was then admitted a member guarded with his own ſo warily conducted Army out of *Scotland*, before his Majeſties happy Reſtauration and the way had been prepared for it, and calling him unto the Door of that houſe, demanded as Peers their Rights and priviledges, to have their houſe of Peers doors opened, which upon his Majeſties Bleſſed Father's murther that ſo miſnamed houſe of Commons in Parliament had ſhut up, and Voted to be *Uſeleſs* and *Dangerous*, which he inſtantly of himſelf Ordered to be opened, without any Act, Order or Vote of Parliament, into which they went and ſat untill they gained more of their Loyall Party to help to fill their Houſe again, which by Degrees was ſhortly after (eſpecially after his Majeſties Landing and Coming to *London*) Repleniſhed and Reſtored, as their King and Sovereign was. And the Nation had notwithſtanding by that *Framer* of that aforeſaid ever to be deplored Act of Parliament, been deprived of that only part of our Parliament Subordinate unto their King from the beginning of our very ancient Monarchy (and as it ought ever to be) till the 49th, Year of K. *Henry* the 3. when he was a Priſoner unto *Simon Montfort* and his Army of Rebells and not before: When ſome Commons were in that Rebellion Elected to be as a part of Parliament and to ſit in a Seperate Lower Houſe, *ad faciendum & conſentiendum iis* which the King and Lords ſhould think fit or neceſſary to Ordain, had it not been reſcued and prevented by the Care of the Lord Viſcount *Stafford* and the Barons of *Abergavenny* and *Dudley*, awakened by the Book a little before Printed and Publiſhed, entituled *Tenenda non Tollenda*, who cauſed a *Proviſo* to be inſerted in the ſaid Act of Parliament, that nothing therein contained ſhould be extended or prejudiciall to the Rights and Priviledges and Honours of the Peers in Parliament, or any that held by *Grand Serjeanty*, &c.

Fabian Philips Tenenda non Tollenda.

And having by their good will left as few *Spears* or *Swords* as they could in our *Iſrael*, to help to protect or defend it,

could notwithſtanding readily find the way to that Ingratefull River *Lethe* and Sin of unthankfullneſs, which God and all good men do not only Abhorr, but the moſt fierce and Savage Beaſts of the Field and Fowls of the Air do deteſt; and could not be fully ſatisfied untill they could add unto the Kings evil Bargain the taking away of the Royal Pourveyance, which amounted unto no Smaller a damage unto him then Ninety or One Hundred Thouſand Pounds *per Ann.* it being in the 35th, Year of the Reign of Queen *Elizabeth*, Eſtimated in the Saving of the houſhold expences 25000 l. *per Ann. communibus Annis*, in the 3. Year of the Reign of King *James* 40000 l. *per Ann.* And in the Reign of King *Charles* the Martyr at the moſt not above 50000 l. *per Ann. Communibus Annis.* But whether more or leſs is not to be found in the receipt or Yearly Income of the Moyety of the dayly ceaſing pretended Recompence by the Exciſe ariſing unto no more then one *Hundred and Fifty Thouſand* Pounds deducting the no little charges in the Collection thereof, and in taking away of that 50 l. *per Ann.* for *the Royall Pourveyance* brought upon the King no leſs a Damage then *One Hundred Thouſand Pounds per Ann.*

And cannot by the moſt Fooliſh of the People (Lunaticks out of their Intervalls, Ideots, very ſmall Infants, and Children only excepted) be with any manner of Colour or Shadow of reaſon believed to be any thing near a Compenſation ſingly for the Pourveyance, and a great deal leſs for that ineſtimable Jewell of the Crown the Tenures *in Capite* and by *Knight Service*, the later a principall part of the ſupport of the Sovereignty and the former of the Crown.

For that the Power, Might and Majeſty that reſideth therein is unvaluable, and not to be Ballanced by any thing that is not as much, the Pourveyance being in the Fourth Year of the Reign of King *James* held to be ſuch an Inſeparable adjunct of the Crown and Imperiall Dignity, and ſome few Years after believed by the Incomparable Sr *Francis Bacon* Lord Chancellor of *England* to be a neceſſary ſupport both in Law and Politiques in other Nations as well as our own, hath told us is ſuch a *Sacra Sacrorum* as *Baldus* and *Individua*, as *Cynus* termeth them, which *Juriſconſultorum Communi quodam decreto* by an uncontroverted opinion of all Lawyers *nec cedi nec diſtrahi nec abalienari a Summo Principe*, cannot as *Bodin* ſaith be granted or releaſed, nor by any manner of way alioned or withholden from the Sovereign Prince *nec ulla quidem temporis diuternitate præſcribi poſſe*, nor by any length of time

Sir *Francis Bacon's* lre. to the Duke of *Buckingham.*

Baldus in prooem. feudorum & in conſult. 274. lib. 3. Cynus in l. ſi viva matre de bonis matris.

time preſcribed againſt him, and therefore by *Beſoldus* called *Imperii & Majeſtatis Jura & bona Regni conjuncta incorporate ſeu Coronæ unita quæ princeps alienare non poteſt*, the Rights and Empire of Majeſty and the goods and part of the Crown ſo Incorporate and annexed unto it as the Prince cannot alien, which, for the Subjects to attempt, would not be much different from an endeavour to reſtrain a Prince by Law againſt the Law of God *& bonos mores*, which by the opinion of the Learned *Bacon* the Lord Chief Juſtice *Hobart* and Judge *Hutton* would be Void and of none Effect, for the preſents and good will of Inferiors to their Superiors is one of the moſt ancient and Noble Cuſtoms which mankind hath ever practiſed, and began ſo with the Beginning and Youth of the world, as we find the Patriarch *Jacob* ſending his Sons to his then unknown Son *Joſeph*, beſides the Mony which he gave them to buy Corn, a Preſent of the beſt Fruits of the Country, a *little Balm*, a *little Honey*, *Spices*, *Mirrh*, *Nutts*, and *Almonds*.

Bodin de repub. lib. 1. Beſeldus diſſert politit. Juridic. de Juribus Majeſtatis. ca. 9.

The *Perſians* in their Kings Progreſſes did *munera offerre, neque vilia neque exilia, neque nimis pretioſa nec magnifica*, bring them Preſents neither *Pretious nor Contemptible*, from which *etiam Agricolæ & Opifices*, Workmen and Plowmen were not freed in the bringing Wine, Oxen, Fruits, and Cheeſes and the firſt Fruits of what the Earth brought forth *quæ non tributa ſed doni loco conſebantur*, which were not accompted to be given as tributes but oblations and free Gifts, which made the poor *Perſian Synetas*, when he met with *Artaxerxes* and his Train in the way of his Progreſs, rather then fail to offer, haſten to the River and bring as much water as he could in his hands, and with a Cheerfull Countenance, Wiſhes and Prayers for his health, preſent it unto him.

Ælianus Hiſt. variar. lib. 1. Briſſonius de Regno Perſiæ. lib. 1.

Nor was ſo altogether appropriate to thoſe Eaſtern Countries where God ſpeaks firſt unto his people, and the Sun of his righteouſneſs did ariſe, but was long ago practiſed in *England* where the cuſtom was as *Gervaſius Tilburienſis*, (who wrote in the Reign of K. *Henry* the 2.) informs us that in the Reign of King *Henry* the 1.) upon all addreſſes to the King *quædam in rem & quædam in ſpem offerre*, to preſent the King with ſome or other preſents, either upon the granting of any thing, or the hopes that he would do it afterwards, and ſo uſually as there were *Oblata*, Rolls or Memorialls kept of it in the Reign of King *John* and ſome other the ſucceeding Kings and Queens, who ſeldom eſcaped the tender of thoſe Gratitudes of *Aurum Reginæ*, Mony or Gold preſented unto

unto them as well as unto their Kings, and was a Cuſtom not infrequent in the *Saxon* Times, as appeareth by our *Doomeſday* Book the moſt exact and generall ſurvey of all the Kingdom, and ſo little afterwards neglected as it was paid upon every pardon of life or member, and ſo carefully collected as it was long after in the Reign of King *Henry* the 3*d* by an Inquiſition taken after the Death of *Gilbert de Samford*, who was by Inheritance Chamberlain to the Queens of *England*, found that he had amongſt many other Fees and Profits due unto him and his Heirs by reaſon of his ſaid office Six pence *per Diem*, allowed for a Clark in the Court of Exchequer to Collect and gather that oblation or duty.

For if there were no Damage to a Prince in his Dignity and Sovereignty, as it muſt needs be of no ſmall concern, it can be of no ſmall Importance in matters of profit and other Neceſſaries appertaining to his Regality and the neceſſary protection and defence of himſelf and his people, as hath been truly calculated and made demonſtrable.

And when Homage hath been defined by our Learned Lawyers *Littleton* and Sr *Edward Coke* to ſignify no more then *Ieo deveigne voſtre home*, *Et mutua debet eſſe*, *dominii & homagii & fidelitatis Connexio*, *Ita quod quantum homo Domino ex Homagio tenentis*, *tantum illi debet Dominus ex Dominio præter ſolam reverentiam*, and Sr *Edward Coke* citing a part out of the *Red book* of the Exchequer ſaith, *omnis homo debet eſſe ſub Domino de vita & membris ſuis & terrenio honore*, *& obſervatione conſilii ſui per honeſtum & utile*, comprehended in the words *Foyall & Loyall*, *ſalva fide deo terræ Principi*; and *ſervicium* is by him defined *in Liege Angliæ regulariter quod pro tenemento ſuo debetur ratione feodi ſui*, and the manner of doing homage and fealty declared or appointed to be taken in 17 King *Edward* the 2, was, that he ſhould hold his hands together between the hands of his Lord; our *Littleton* long after writing his book ſaith, he ſhall *be ungirt, his head uncovered, his Lord ſhall ſit and he ſhall kneel before him upon both his knees, and hold his hands Joyntly together betwixt the hands of his Lord*, and ſay, *I become your man, from this day forward, of life and limbs and earthly worſhip, and ſhall owe you my faith for the Lands which I hold of you, ſaving the faith which I owe unto my Lord the King and to mine other Lords.*

17. *E.* 2.

Littleton tit. Homage.

Et homo & Homagium ſaith Sr *Henry Spelman ſunt verba feudaliam & in fundamentis Juris illius*, and after the *Oſculum* or kiſs of the Lord received, ariſeth and taketh the Oath of *fidelity*

Spelman gloſ. tit homagium.

Fidelity to be faithfull and true unto him, and ſaith *Bracton* homage becometh to be *ex parte Domini protectio, defenſio, Warrantia, & ex parte Tenentis reverentia & Subjectio.* Bracton lib. 2. cap. 35. num. 8.

And our *Littleton* defining fealty as it is amongſt the *Feudiſts a fidelitate*, ſaith, that it is *to be true and faithfull to his Lord for the Lands which he holdeth of him, and ſhall faithfully do unto him the ſervice which he ought to do.*

And *Gervaſius Tilburienſis* cited by *Sr Edward Coke* might have added to the definition of homage on the King or Lords part ſomething more from the Tenant or Homager then *reverence and ſubjection*, and not have omitted the greateſt Tie and Obligation which was gratitude, for the Lands at the firſt given to his Father and Anceſtor for that only Service; The Tenant holding his lands & ſervices under a forfeiture but the King or Lord not *ſimili modo* but reteyning and holding his propriety & *directum dominium* without any *limitation* the *utile dominium* appertaineth unto the Tenant untill he forfeits and then the Lord may enter upon the *utile*, and annex it unto his *directum* and diſpoſe of it as he pleaſeth.

And *Sr Henry Spelman* ſaith *licet non Juratum eſt in homagio ſed in fidelitate, Intelligendum eſt quod fidelitatis præſtatio individue ſequitur homagium, Et in noſtro Jure fidelitas eſt de Eſſentia Homagii, nam ſi quis fidelitatem remiſerit caſſum facit ipſum Homagium*, And in the language of our Old Records Writs and reſcripts of our Kings and Princes, Homage and fealty do ſo often go together, as they may be ſeem to be adjuncts each unto the other and are in effect as to the Subjection and ſervice but *Synonimous* and Conſignificant, differing only in the Ceremonies, as our *Littleton* ſaith, in doing the ſame which in the direction and ſtile of our Kings mandates unto one that hath actually done his homage, the Word *Fidelis* is many times uſed without any mention of Homage, *dilecto & fideli ſuo*, as comprehending Homage, *fidelitas autem particularis apud Anglos individue comitatur omnes Tenuras, etiam dimiſſiones ad breviſſimum tempus nunc dierum, & quamvis nunc dierum parcius exigitur relaxari tamen nullo modo poteſt ſine tenuræ interitu.* Spelman gloſſ. tit. homagium. Spelman gloſſ. tit. fidelitas.

And Homage and Fealty being ſuch inſeparable Concomitants as not to be ſeparated, Homage in the *Capite* and Knight Service conjoyning unto it, *Fealty* which is the reality effect and ſervice thereof, and Homage in thoſe Tenures the only Ceremoniall part thereof, which would be to little purpoſe without the faith fidelity and ſervice which can ſubſiſt and perform its ſervices without it, And was ſo underſtood by our

Kings and Princes in their Writs of Summons to their Baronage to their Parliaments when making no mention of Homage which is often reſpited, commands them *in fide qua nobis tenemini* to appear and be preſent.

1 *Jac. ca.* 26. & *ro. Claus. H.* 3.

For howſoever amongſt Kings and Princes, thoſe great concerns of them and their Subjects may be allowed to inſiſt upon punctilio's of Honour and very neceſſary Concernments, which might be conſequentiall thereunto, which cauſed our great and prudent King *Edward* the Firſt when he did his Homage to the King of *France* for the Dutchy of *Acquitaine* carefully to except his ancient right to the Dutchy of *Normandy*, and the *French* Kings denying his brave and victorious Grandchild *Edward* the 3. to do his Homage by proxy made him ſo Inquiſitive into his own better Title unto that Kingdom as the *French* King paid dear for it, and the *Engliſh* King at length the owner of that great and flouriſhing Kingdom.

Spelman's gloſſar. tit. Homage.

When Fealty is conjoyned with the Oaths of Allgeance and Supremacy, the true born only Legitimate Iſſue and Children of the *Feudall* Laws, they will be like a 3 fold Cord not at all in Reaſon or Juſtice to be broken, And in matters touching Inheritances, Nobility, Titles of Honour, womens Dower of the 3 part of Lands, and Tenements, fees, tenures *in Capite* and by Knight Service, Rents, Eſcheats, Fines, Felonies, Forfeitures, tryall by battell, *cum multis aliis*, &c. our Laws being not only founded upon them but ſupported and guided by them, It may be wondred it ſhould be ſo unknown to our Common Lawyers, whom a carefull reading of our *Glanvil Bracton Britton* and *Fleta*, and a better acquaintance with their mother the Civill and *Cæſarean* and *Feudall* Laws, with a due inſpection into the ever to be valued Records of the Kingdom might better inſtruct then the malecontent and ill affected Sr *Edward Coke* and ſome other of the later School or Edition of thoſe which are called Common Saviors, as not to believe with great aſſurance that that which they call ſo generally the Common Law is for the moſt part, if not all, the Feudall Law which they are pleaſed to call the *Prærogativa Regis* declared and acknowledged *in Anno*, 17. *E.* 2. and likewiſe that of the view of Franck pledge the next Year enſuing, and that it was therefore not unfitly wiſhed by a Late Learned Author ſuppoſed to be a poſt-hume of Sr *Henry Spelman*, that Some worthy Lawyer would diligently read the *Feudall* Laws, and ſhew the ſeverall heads from whence thoſe of our Laws are derived, wherein ſaith he the Lawyers beyond the Seas are diligent but ours are all for profit,

Sr *Henry Spelman* of the Laws, Terms, &c.

profit, And An Act of Parliament in *Anno*, 1662. made by King *Charles* the 2. for the Settlement of the Kingdom of *Ireland*, wherein notwithstanding that it was in the 13th, Year of his Reign ordained that all lands and Tenements in *England* and *Ireland* should be holden of him his Heirs and Successors in *Free and Common Socage*, there is a Proviso and Exception that all lands tenements and Hereditaments (in *Ireland*) setled or to be setled on the Soldiers who are out of said Act, and not provided for shall be, held of the King his Heirs and Successors by Knight Service *in Capite*; and it is well known that our unruly Neighbours in *Scotland* that could never be satisfied with the Fat and plenty of our Land of *Goshen* untill the lean kine had eat up the fat, and they had set our before happy Kingdom on fire with their Hypocriticall, dissembling, Illegall, wicked Covenant, did not in all the mischiefs and Miseries which they brought upon us and themselves in those their Rebellious Designs, make it any part of their desires to change their ancient tenures *in Capite* and *by Knight Service* into free and Common Socage, which by unhinging the Government would have set all the wild Beasts of the Forrests loose and at Liberty, and made the otherwise unruly and never to be governed numerous vassalls so masterless as to tear in peices their *Lords Lairds* or Superiors, and turn that Monarchy to do as well as it can amongst a herd of rudeness and Incivilities in their *Plads* and *Blew Capps*.

And the *Hollandiæ, Zelandiæ, Frisiæq; principes terra mariq; potentes* heretofore *nullo externo usi milite ex veteri Longobardorum Consuitudine sub certa quadam feudalitiæ necessitudinis lege hoc est mutuæ inter dominicum patrocinum ac Fiduciariam Clientelam veluti pactionis nexu beneficiarii instituerentur qui Conceptis verbis interposita Juratæ fidei religione pro beneficio accepto patrono suo militarem operam præberent navarentque ut scilicet quoties usus posceret parati in armis essent id quod Jure Feudalistico proprium Feudatariorium munus atque officium est.* *Cornelius Neostadius in tract. de Origine Feudi Hollandici Frisici accordat. Origine.*

Et cum prædiorum defectu in these Provinces which *ingenio soli quod natura depressum ac uliginosum* were naturally scituated *cum incilibus passim fossis lacubusque ac paludibus intercussum haud sane faciles aditus ostentat confisa & turbas & Seditionum præmia converteret*, and therefore to untie those obligations betwixt the Lords and Tenants and enervate those strengths and promptitude to a confidence in their own Power, *Charles* the 5th Emperour, *Edicto perpetuo Anno Domini* 1518. *officia hæc militaria vulgo servitia dicta in universum abrogavit*

abragavit vaſſalliſque omnibus remiſit.

Ea tamen lege ut fundi Clientelares functionibus publicis (quibus hactenus Imunes fuiſſent) in poſterum non ſecus atque patrimoniales obnoxii exiſterent, and having ſo farr inticed them out of their old into a much worſe conſtitution, with Taxes and the *Spaniſh Inquiſition* managed by the Duke *D'Alva* in a moſt tyrannical arbitrary Goverment, ſo deſperated them as after a long time expended in Interceſſions without any redreſs obteyned, and thoſe their diſcontents heightned and made uſe of, by the Policies of their neighbours the *Engliſh* and *French*, who had reaſon to fear the ambitious encrochments and evil deſigns of the King of *Spain* to oppreſs them that were his neighbours; and by the aſſiſtance of his late Conqueſt of the *Weſt Indies* with their Gold and Silver Mines endeavouring to make himſelf to be as it were the *Atlas* of the World and extend his Dominions to a Fifth Monarchy and a *Ne plus ultra* ; All which concurring and put together with the Conduct and Adventurous ſucceſsfull care of the then Prince of *Orange* aſſiſted by the united Seven Provinces, whereof *Holland Zealand* and *Weſt Freiſland* were the greateſt Incouragers, of the other, cauſed that *fœdus ultrajectinum*, which in a long ſeries and continuance of Time of Years making thoſe netherland Belgick Provinces to be a *Campus Martius* and field of Bloud, hath with an intermiſſion only of 12 Years Truce after that Centnry ended, occaſioned greater ruines & effuſion of blood then the Wars Joyned all together between *Rome* and *Carthage*, and *Cæſar* and *Pompey* in the *Pharſalian* Fields.

So long and fatall from the beginning to the ending hath been that unhappy project of the diſſolving the *Hollandiſh Zealand* and *Weſt Freizland* ancient Feud l Laws by the altering their Tenures *in Capite* and by military ſervice, which howſoever they had ſo continued depreſsed during the heat and fury of that *Spaniſh War* been laid aſide and intromitted ſaith *Neoſtadius*, *hæc olim celeberrima Feudalis Curiæ quam Oraculum Bataviæ* was wont to be called, the Lords the States of *Holland* & *Weſt-Freiſland* did by a Publique Decree order that *omnia Inſtrumenta Feudalia publica & Feudalia Scrinia* ſhould be ſearched put & kept in order ; And in his Epiſtle Ded. unto the *Eſtates* aforeſaid & Judges of the ſaid *Feudal* Court Dated no longer ago then in the Month of *Sept.* 1665. from *Alcmar*, ſaith likewiſe, that *de qua Intromiſſa ſæpiſſime quærebatur denuo inſtaurata fuiſſet adeo ut vos* (the *Eſtates*) *qui hoc tempore ejuſdem reminiſcentis Feudalis Curiæ Senatores ſive pares eſtis negligereaut aliis poſtponere non poſſe.* And yet they do think Themſelves

Neoſtadius in ſua Epiſt. dedicat.

Themſelves at this day to be as free a people as any in the World with an high and mighty *Hoghen Moghen* into the bargain.

And the Framers and Voters of that overturning as much as it could of our ancient Monarchy, (many of whom, as Houſe of Commons, Members in that Parliament, were *Knights Baronetts*, *Knights of the Bath* and *Knights Batchelors*) might have been ſomething more cautious then they were, and taken more care of the fatall Conſequences that might and would inevitably happen, yea more then by Chance by an unavoidable neceſſity, or for the liberties of 10000 manors in *England* and *Wales* and a great many of manors & liberties in *Ireland* which had no other originall or Foundation then Monarchy or the unrebe ious *Feudall* Laws and it and their continuance, for what could they imagine but Confuſion and Villany would follow in the order of Baronetts Created by King *James* in the 9th, Year of his Reign limited at the firſt unto the number of 200. now ſupernumerated unto almoſt 1500. to hold by the tenure of maintayning 30. foot-Soldiers at 8 d. *per diem* for 3 Years for the regaining of the Province of *Ulſter* in *Ireland*, what for any of the Honourable Knights of the *Garter* that have no priviledge of Peers in Parliament, what for the Knights of the *Bath* that are to be made at the Creation of every Prince of *Wales* being the King of *Englands* eldeſt Son, what for ſuch as our Kings have honoured or ſhall be pleaſed to Dignify with the honor of Knighthood or the Sword or to be an *Eques Auratus*; what care was taken in that levelling Act in the effect of turning the Tenures *in Capite* and by *Knight Service* into free and Common *Socage*, for the honour and degree of Knighthood or of that more meritorious extraordinary one of *Knight Banneretts*: Was it ever intended they ſhould go all to Plow with ſome ill brewed Ale to wet their Whiſtles, with their ſword and guilt ſpurrs promiſcuouſly, ſome with blew or red Garters or ribbons, and the reſt without, and could there be no Exception or proviſo's inſerted in that Act for thoſe Honourable degrees, which appertained ſo only to the Sovereign or a power derived from them, as our Queens Regent, in their Incapacities of wearing or brandiſhing a ſword or perſonal fighting, are by themſelves or others commiſſionated by them only to grant or give thoſe Priviledges which are not a Few and can have no other derivation or reaſon for their Commencement then *a Militando*, not as Common Soldiers but *ex ſtrenua & continuata militia tantum adipiſcatur honor*, when

Seldens tit. honor.

Sr *John Fernes* glory of Generoſity ſect. 110.111. 117.118.119.

by the Imperiall Laws Knights *ex Jure conceſſione principis preſcriptione & conſuetudine*, were anciently at the receiving of that honourable order to ſwear *not to reveal any thing by ſolemn Oath or Vow which concerneth his Sovereign or his Countrey, never to put on Armour againſt his Prince, never to forſake his Generall, never to fly the field of his Enemy, &c.* had *Jus Annulorum* as the *Equeſtris Ordo* were amongſt the *Roman* Knights uſed to be honoured with, when at the Battle and overthrow of them at *Cannes* there were gathered amongſt the ſlain 2 Buſhell of Rings, in *England* and other *Northern* Kingdoms had *jus Imaginum Coate Armorius* and beſides what *Sr Edward Coke* cannot deny to be an ancient priviledge due unto Knighthood, as hath been before ſaid to be free *ab omni Tallagio*, a Knight is not to have his *Equitature* or Horſe diſtrained and taken in Execution although it be for the Kings Debt, a Knight accuſed of any Crime (Treaſon ſhall not be examined but before his Competent Judge,) againſt a Knight in warr no preſcription runneth, neither ſhall he be compelled to be Guardian to Children, except they be the Children of Knights, ſhall not ſuffer any Ignominious Corporall Puniſhment, as hanging upon a Gibbet unleſs firſt Degraded, nor be ſet at any ranſome but ſuch as he ſhall be able after to maintain his Degree.

Livy.

And in time of peace hath been ſo much valued and eſteemed as 3 Knights Aſſociated in the Kings Commiſſion of *Oyer* and *Terminer* might hear and determine forcible Entries and outrages in the ſame Country or Province. A *Coroner*, formerly an eſpeciall officer of the Crown, was to be a Knight, a Sheriffs Certificate, and return of the *Tallies* of the Kings Creditors, and Monies paid as due unto them is to be accompanied with the hands of 2 Knights; a Sheriff cannot remove a plaint out of an Inferiour into a Superior Court without the teſtimony of 4 Knights. Knights and no other are to be ſent by the Sheriffs to make the View *de malo lecti*; the Knights of the ſhires elected to be members of the Houſe of Commons in Parliament ought to be *gladiis cincti*, and the Commons have in Parliament Petitioned the King and obteyned a grant that it might not be otherwiſe, *Ou autrement tiel notables Eſquiers Gentilhomes del nation des meſmes les Counties come ſoyent ables d'eſtre Chivalier & noul home deſtre tiel Chivaler que eſtoite en les degrees de vadlet* (*ou Varlet* ſaith Mr *Selden*) *& de ſouth*, an Infant holding his Lands *in Capite* or by *Knight Service* ſhall not be in Ward after he is Knighted, a Knight inhabiting in any City or town Corporate ſhall not be Impannelled

Bracton de Eſſociis ca. 10. ſect. 1.

Seldens tit. *Honor.* ca. 5. ſect. 831.

pannelled in a Jury for the Tryal of a Criminall, in a Civil Action for Debt or the like, wherein any of the Nobility are plaintiffs or defendents. 2 *Knights* are to be Impannelled on the Jury. A *Knight* ſhall not be diſtrained to ſerve in perſon for *Caſtle guard*, although he do hold Lands by that Tenure. A certain number of Knights are to elect a Jury in a Writ of grand Aſſize, and none but a *Knight* ſhould be permitted to wear a Coller of *S. S.* or Golden or Guilt Spurrs. And the Dignity of *Chivaler* or Knight, hath been in *England* ſo honorable, as Earls, beſides their Greater Titles, would many times uſe the Title of *Chivaler* only, and at other times deſire to receive the Honour of Knighthood from the King after they were Earls, and our Kings have ſometimes ſent their Eldeſt Sons to be Knighted by other Kings.

And a Villain which *Sr Edward Coke* ſtileth a *Sokeman* or one that holdeth in *Socage* is not by the Law of Nations and Arms to be made a Knight, unleſs he can manifeſt himſelf to be a Gentleman. Sir *John Fernes* glory of Generoſity. 107.

So great a diſparagement, inconvenience, and diſarming, and diſabling the Nation, both in the defence of their King and Themſelves and their Poſterity and the Honour and Dignity of their Kings and Princes with as much Wiſdom as if they ſhould make their moſt Earneſt Supplications unto God Almighty the King of Kings to leſſen the *Sun* & make him to be no more then a ſmall *Farthing* Candle, have the *Procurers* & *Contrivers* of that moſt prejudiciall Act of Parliament, for Metamorphoſing the Tenures *in Capite* and *by Knight Service* into Free & Common *Socage*, brought upon us that ever was contrived, againſt the Imperial Crown & Dignity of our Kings and the ſafety of their People and Subjects, wherein they have attempted, as much as they could, to Manacle our Monarchy, and Invalidate and make ineffectuall at once that great and unvaluable ſervice, done by the gallant and Generous *George Monke*, in his Majeſties moſt happy Reſtauration, with his entire and Juſt Regalities.

When they ſhould rather admire, and give God thanks for that goodly Fabrick and Structure of our Laws and Liberties, under the beſt of Monarchies, then ſeek to eradicate and pull them up Root and Branch, by hearkening to that wicked advice, which Mr *Bond*, the Maſter of the *Savoy*, in the time of their troubles, and ſome diſtreſſes happening to the hopes of erecting their Project of a Commonwealth, Founded in the Murther of their Religious King, and the Blood of multitudes of their Fellow-Subjects, gave unto his Fellow-Rebells, in *Bond's Sermon* to the Houſe of *Commons in Parliament.*

in a Conſolation Sermon preached by him before the then Uſurped Houſe of Commons in Parliament, that if they could not prevail, they ſhould imitate *Sampſons Revenge* upon the *Philiſtians*, *by pulling down the Houſe upon their Heads, with an Encouragement and Aſſurance, that, if they ſhould fail or miſcarry in that Cauſe of God, he would have it after his death to be Written upon his Tombe, Here lieth he that was deceived in his God and his Goſpel.*

The *Scutifer Armiger* or Eſq. which in a right definction, and in its true *Etymon* and *radix* is and ſhould be leſs, and of a lower Degree then Gentleman, as *de gente Fabia Cornelia*, (although of later Times it hath been otherwiſe believed and uſed) and is not Equivalent unto that of a gentleman, who hath many Priviledges, As to bear Arms or Coat Armory, The Clown Varlet or *Sokeman* ſhall ariſe and give him place. A gentleman ought to be preferred unto Offices before any man Ignoble, and in matters of Teſtimony *Magis Credendum Nobilibus quam plurimis aliis*, may wear better Apparell as to his body, and uſe more rich utenſiis in his Houſe or neceſſaries: his vote vow or opinion is in the Election or Scrutiny of Voices next after the Preſident or Magiſtrate *& primam vocem Edit Nobilis*, the ungentle ſhall not Challenge the Gentle to a Combat, *Quia Conditione impares* with 28 more Priviledges, which the *Civill Cæſarean* and *Feudall* Laws have given them.

Sir *John Fernes* glory of Generoſity.

And thoſe *Confuſion* Mongers might once, if ever they Intend to repent, ought not only to look back into the days of old, where in all Kingdoms and Nations of Mankind, they may ſee it was found to be neceſſary to have ſeverall orders degrees and *Claſſes* of people, according to each of their Capacities, had under Kings appointed by God, thoſe that were fit for Magiſtracy and Councell, Military men and ſuch as were neceſſary for War by Land or Sea, Plowmen or ſuch as might manage or Till the Earth, *Opifices* or Tradeſmen, with the *plebs* or *imperita Multitudo*, and how much Sin and Villany, great Damage, Ruine and Confuſion they have committed or done againſt their Kings Themſelves and their own Poſterities in aſſaying to make an head out of the feet, or turn an head into a foot, or what kind of Reformation could thoſe Contrivers imagine could ever be made out of ſuch a *Chaos* of their own making, which will inevitably prove to be in the ſequel as Impoſſible as for *Circes* Inchanted Cup ſoundly or deeply drank off ever to *Unſwine* thoſe that had been Inchanted or Transformed by it, or what Form or Frame of Government we ſhould have, when the *Cæſarean* and *Feudall* Laws,

Sigonius de Antiquo Jure Provinciarum

and

and the Ancient rectified and rational Customes of the Kingdom shall be Massacred, when (the happily escaping) Baronage, Temporall and Spirituall, the Knights, Esquires, Gentlemen and Freeholders, the later of whom had no other stile or Title at the best then *probos & legales Homines*, must be put under or into no better a respect or Condition then to be sent to Plow as Villain or Varlets, aud be no more then *Socage* or *Sokeman*, of which that of Villainage or Husbandry, hath been both by our *Littleton* and *Coke* accompted to have been a part, for *Laudes apud Gallos liberi sunt aut serviles, vernacula Laudes Francks & Laudes serfs, hi rei rusticæ ascripti, tributa pendunt & opera servilia, illi ad militiam designati nobiles habentur & Immunes a tributis.*

Littletons tenures & Cokes Comments thereupon.

Spelmans glos. tit. Laudes.

And all men but meanly acquainted with the beginning, rise, Duration and Continuance of the vast *Roman* Empire, must Acknowledge that they were at the first but *Bubulci & Opiliones*, such a Company of Shepheards and Heardsmen, as their neighbours the *Sabines* scorning to intermarry with them, they were forced to Ravish and steal their Daughters to make Wifes; and that after many Wars, Troubles, seditions and Expulsion of their Kings, and abrogating of former Laws and Customes, they rowled, tumbled over and over, and so disquieted each other, as they were constrained to send to *Sparta* and *Athens*, to enquire what Laws and Government they had, which for a while Contenting and keeping them in some order, whilst they were busied in the Building up their Empire robbing and Conquering a great part of the World, Although with troubles enough the while, in the often change and turmoile of their Magistrates as in their *Decemviri*, *Consuls*, *Tribuni Plebis patricii* and Commons with the bloody interchange of the *Marian* and *Syllan* proscriptious Triumvirate &c. untill they arrived at the happiness of perpetuall Dictator and Monarchy, yet in all that time and after the Division of that overgrown Empire *mole ruentis sua*, into that of the *West* and *East*, they never sought to abrogate the Laws of the 12 *Tables*, the *Fontes* and *Origines* of the Civill Laws and those voluminous Comments which have been made upon them by their *Jurisconsults* & though long after hidden as for a great part disused and driven almost into Oblivion by the Irruption of the *Goths* and *Longobards* into the *Western* Empire, and the Establishment of their better-natured and approved *Feudall* Laws, untill about 500. Years after they had escaped the Edicts of those Northern People to be burned and never more used, and being found safe and entire,

Livy.

Selden's notes upon Fortescue.

were in the time of *Lotharius* the Emperor brought in a grand Proceſſion and Ceremony by Torch-light into *Piſa* or *Florence*, and ſo ever after lived peaceably and quietly in the neighbourhood of the *Feudall* Laws; So as the One became Aſſiſtant unto the Other, cohabited and would never after depart from each other, and even the Late *Commonwealth* Rebells could not amongſt all their new-Fangles and Devices forbear their being much in love with the Tryalls by *Juries* both in Civill and Criminall Actions, which had both their Uſe and Foundation from the *Civill* and *Feudall* Laws; And *Oliver Cromwell* could after he had over-reacht and Maſtered them, find no better expedient to maintain the Grandeur of his wickedly-gained *Protectorſhip*, but to borrow and make uſe of that part of the *Feudall* Laws which allowed a ſubſervient *Peerage*, and therefore Created ſome of his *Major*-Generalls, (amongſt whom were thoſe grand *States*-men *Hewſon* the *Cobler*, *Pride* the *Drayman*, and *Kelſy* the *Bodieſmaker*, &c.) Members of an Houſe of Peers, which he would by another name have called the *Other* Houſe, as Superior to his Houſe of Commons, or *Rebellion*-Voters, who having ſate and executed as much Power as he could beſtow upon them, did, after death had cropt his Ambition, and carried him to his deſerved ſevere accompt, attend with their whole Houſe in grevious melancholly and mourning, his Funerall and Magnificent Charriott of State, to be buried in *Weſtminſter*-Abby, to lye there untill the *Hangman* afterwards by a better Authority fetched away his Hipocriticall Carcaſs to a more proper Place, with their long-mourning Train, Supported by 6 or 8 of his nicknamed Peers.

And after thoſe pullers down, as much as they could, of our Excellent Foundations to build up their Abominable *Babell* of murdering their King, Deſtroying, Maſſacring, Plundering, Sequeſtring and decimating of his Loyal Subjects & ruining his Royal Poſterity, ſhould after his Miraculous Reſtauration think it to be a great piece of ſervice to themſelves and the whole Nation, to put under the ſhame and Ignominy of a tenure unto which our Laws never yet afforded any more then the loweſt of Titles, as Ruſticks, men holding by the ſervice of the Plough and Villainage, to teach the moſt Ignorant and Incapacious part of the People how to Maſter, equall or abuſe their betters, or invite the Hogs and Swine into the Gardens and *Beds of Spices*, to root up, foul, and trample upon the *Lillyes of the Vallies* and Roſes of *Sharon*, hoping thereby to fruſtrate the glorious actions of that great Generall

Monke,

Monke, in the Reſtoring of the King unto his Juſt entire regall Rights, and to lay a Foundation hereafter of binding him and our *Kings in Chains* and *our Nobles in Fetters of Iron*, and to make an eaſy way for all the People of other Kingdoms to order and Govern their Kings as they hoped, by transforming their Laws and Regalities into ſuch evil and Ignorant ſhapes, Interpretations and Conſtructions as the People, and like the Dogs in the Fable of *Acteon*, might (when they pleaſed) be the Murderers of their Kings and Princes and of their own Laws and Liberties.

But that Great and Prudent Prince in the time of his travail and abode, after his fathers death in the parts beyond the Seas, and other great Actions done by him before he returned into *England*, as *Fleta* a Lawyer of good accompt and not meanly inſtructed, as well in the *Civil* as *Common* Laws, or elſe Mr *Selden* would neither have Cauſed his Manuſcript (ſo long concealed in Libraries and paſſing from hand to hand, of ſuch as could be made happy by the view thereof) to be Printed and Publiſhed with his learned Diſſertations or Comment thereupon, ſaith, that there having been a Congreſs or Meeting at *Montpellier* in *France* upon the 16th, day of *November* 1275 or ſome ſhort time after in the year 1276, about the 4th, year of his Reign between him and many other Chriſtian Kings or their Embaſſadours, *Vis. Michael Paleologus Imperator Orientis, Rodolphus Primus Occidentis, Galliæ Philippus Audax, Caſtellæ Leonis Alphonſus, Decimus ſummus ille Aſtronomus & Partitarum Author, Scociæ Alexander tertius, Daniæ Ericus octavus, Poloniæ Bodiſlaus, Hungariæ Uladiſlaus quartus, Aragoniæ Jacobus, Boemiæ Ottocarus Carolus, Siciliæ Hugo Hieroſolonicorum & alii Complures minoris nominis, qui Regum Chriſtianorum vocamme fruebantur*, wherein certain agreements and proviſions were ſeverally made touching the reſumption, of the Lands and Manors appertaining to their Crowns & Kingdoms, together with their Homage, Rights, & Juriſdictions, wherein, although Mr *Selden* that great *Diver* and *Searcher* into antiquities ſeemeth to doubt of the truth thereof, for that *Scriptores de hoc Anno non Conveniunt*, and at that time *Rodolphus Cæſar* had granted unto Pope *Gregory* the 10th; *Latifundia circumquaque ampliſſima quæ antea Imperii pars inſignis*; And ſaith that aſſertion or place in *Fleta* is *locus prodigioſus*, the rather for that *Azo Item Juriſconſulti illius* (*ævi*) *ſummi veteſti*, and our *Bracton* maketh no mention of it in his Chapter *de donationibus*, nor *Britton* in his *Compendium Juris*, neither is it found in

Fleta lib. 3. ca. 6. ſect. 3.

Seldeni diſſertatio ad Fletam ca. 10. p. 249.

in any other Jurisconsults, or in *Fortescue* who lived long after.

Howsoever, Notwithstanding the great reverence and respect which every man of learning or well-wishers thereunto must or ought to bear unto our great *Selden*, that *Dictator* of learning so universally acknowledged not only in *England* but in the parts beyond the Seas to be *Decus gentis Anglorum*, I shall be of necessity constrained in this particular to Vindicate *Fleta* from what he chargeth upon him concerning the provisions and resolutions made and taken by our King *Edward* the 1. and the aforesaid Christian Kings and Princes, who, especially *Alexander* King of *Scotland* and the Kings of *France*, *Castill*, and *Leon*, near neighbours to *England*, or his *French* territories, together with the Emperor of *Germany*, and the King of *Sicily*, by whom he had been Sumptuously Feasted in his Return from *Jerusalem*, might probably not have been Ignorant of his own and his Fathers and Grandfathers troubles aud Ill usage, by some of his Rebellious Baronage and a party of the Ecclesiasticall and Common People depending upon them, or allured unto their Ill usage of their Kings and Princes. but to appeal to his own Vast reading and the Company of his large and Eminently furnished Library, with his Collection and recherches of and into all the Records and Choice Manuscripts in *England* all the Uniuersities thereof and Forreign parts, the *Roman Vatican* not excepted, and what could be in that famous Library of Sr *Robert Cotton* whilst he lived, truly believed to be the *Esculapius Librorum*.

And it will be undoubtedly certain that there hath never been, since the Writings of the books of Sacred Scripture, any Infallibility or absolute Certainty, that a Gospell of *St Thomas* hath been Assayed to be Imposed upon the Christian World, that *St Paul's* Epistle to the *Hebrews*, though by the Church admitted to be canonicall, have met with some Jealousies, who was the Author thereof, the great Care of the Monks, mentioned in the preface of Dr *Watts* his Edition of *Matthew Paris*, to have truths n y registred to Posterity, have not freed us from the Discrepancy amongst our Ancient Writers as unto matters of Fact, as well as of opinion, and reasons given thereof, and even in that plain dealing Monk of *St Albans* matters of Consequence have been omitted, though he was King *Henry* the 3. his Historiographer, which others have recorded, and some things recited that others have omitted, and it will ever be impossible to reconcile the every where apparent differences amongst Ancient Authors as to things done, when *non omnia possumus omnes* hath been truly said, one

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man may know all, and others but ſome part, one thinks it not neceſſary to record ſome things, and others the Contrary, and *quot Homines tot ſententiæ*, our *Engliſh* Chronicles written by *Hollingſhead*, *Grafton*, *Fabian*, *Stow* and Sir *Richard Baker*, have not been Written with one and the ſame Pen, memory or Intelligence. And it is likely that all, or moſt of them, have not given us the true relation of the Cauſe or misfortune of the firing or burning of the Famous High Steeple of St. *Pauls* Cathedral in *London*, and a great part of an Hundred Years hath paſſed, whilſt the People have entertained a belief that the height of that Steeple and Lightning had been the Cauſe of it, until a Plummers Boy, grown up to a very old man, did upon his death-bed Confeſs that it was his own Careleſsneſs that did it by leaving of Fire amongſt the Chips that helped to melt the Lead, whereby the Steeple and Church fell on Fire, and that until then he durſt not reveal it. And our great *Selden* may ſuffer the World to believe, that in his moſt excellent book of *mare Clauſum*, to prove the Dominion of the *Brittiſh* Seas to appertain unto our Kings of *England*, he hath Diſcovered more then ever was known or Written of before by any Author, and of many ther his learned *Recherches* in all the parts of the moſt Severe and hidden learning through the *Weſtern* and *Eaſtern* Languages, opening and Diſcovering of many of the Rich menis of Knowledge and learning, which until his Induſtrious labours had Bleſſed the World with the Knowledge thereof, had yet probably lain as it were buried and Concealed. And the very learned Mr. *Boyl* a younger Son of the Earl of *Cork* in *Ireland* who by his more than ordinary Enquiry and *Recherches* into the occults of Philoſophy, diſcovered the very neceſſary, Uſeful and Experimented Art or Method of converting Salt and Bryny Sea-water into freſh and potable long laſting, which ever ſince *Noahs* Flood had laid hid and concealed from the Generations of the Sons of Mankind and Searchers of the deep; and Mr. *Selden* muſt of neceſſity permit it to be likewiſe believed that our *Engliſh* Annaliſts, Hiſtorians and records will witneſs, that before the Reign of King *Edward* the 1. and that grand Parliament, or congreſs of him and the aforeſaid Chriſtian Kings mentioned by *Fleta*, our *Henry* the 2. King of *England*, did not only reſume and call back to the Revenues of his Crown divers Manors, Lands

and Hereditaments, which his Royal Predeceſſors had alienated, but King *Edward* the 1. *Henry* the 4th, 6th, and *Edward* the 4th, did the like.

Choppinus de antiquo Dominio Regum Franciæ.

For *Choppinus* in his book *de antiquo Dominio Regum Franciæ* hath given us the Reaſon and neceſſity thereof, and our Parliament Rolls can evidence that the Commons of *England* have complained that our Kings have granted away to their Subjects too many of the Liberties belonging to the Crown of *England*, and it was one of the Articles, Exhibited againſt the Rebelliouſly depoſed King *Richard* the 2. that he had aliened certain Manors and Lands of the Crown.

And the Actions and Proceedings of King *Edward* the 1. after his return into *England*, and that aforeſaid Congreſs and Meeting of ſo many Chriſtian Kings and Princes, muſt of neceſſity greatly Corroborate and Confirm *Fleta*'s beforementioned aſſertion, when the great Actions of that Prince after that he came into *England* may evidence that he was Diligent and Careful in the performance of what he undertook and underſtood rationally to be done in his own Kingdoms & Provinces, & might well think that many of the aforeſaid other Kings & Princes would have done the like, if ſome other evenements or diſturbances, as the long continued Wars in *France*, & the *Aurea Bulla* in the Empire of *Germany*, had not leſſened or hindred their reſolutions.

Fleta lib. 1. ca. 42. p. 93.

So as our excellently learned Mr. *Selden* may give me and others leave to ſay, That when *Fleta* recited that Dreadful Proceſſion, Impoſed and put upon King *Henry* the 3. to walk through *Weſtminſter* Hall to the Abby Church of *Weſtminſter*, Curſing and Condemning to Hell the Violaters of *Magna Charta* and *Charta de Forreſta*, and ſaith it was done *in præſentia & aſſenſu Regis Henrici, Archiepiſcoporum, Epiſcoporum, Abbatum, Priorum, Comitum Baronum, magnatum Regni Angliæ*, he doth not mention King *Johns* Charter being read, as *Mathew Paris* and *Samuel Daniel* have related, or of the Record before ſpecified of the Kings ſpecial ſaving of his Regalities, & it happened well that none of the Predeceſſors or Progenitors of the Houſe of Commons in the Parliament of 1641. & their Continuators, through all that long & fatal Rebellion, the moſt Ingrate & greateſt fringers of *Magna Charta* & *Charta de Foreſta*, & as great *over-turners* of Reaſon, Laws, Religion, & Truth, and the Engliſh Nation, & the ſenſe, Conſtruction and true meaning of the words heretofore uſed, or miſuſed therein as

ever

ever was or hath been in any Nation, Countrey, or Kingdom, or at the Confuſion of Languages at the building of the Tower of *Babell*, or amounting to all the *Nonſence* that hath ever ſince been ſpoken by or amongſt mankind in an everlaſting Spirit of *Contradiction* to Reaſon, Truth and the Lawso. the Land.

And *Fleta*, a Contemporary Lawyer, under that valiant and prudent Prince hath likewiſe recommended to After Ages that *res ſacras Coronæ fuere liber Homo, pax, Juriſdictio muri & portæ Civitatis quæ nullo dari debeant*. And that *res quidem Coronæ ſunt antiqua maneria Regis, Homagia, libertates & hujusmodi quæ non alienentur, tenentur Rex ea revocare, ſecundum proviſionem omnium Regum Chriſtianorum apud montem peſſulam mompellier in Languedock Anno Regni Regis Edwardi, fil. Regis Henrici, quarto; Et ſi de Eſcaetis ſuis perinde debeant ad valenciam, nec valebit deforciantibus longi temporis præſcriptio, diuturnitas enim temporis tantum in hoc Caſu magis Injuriam auget quam minuit, cum conſtare debeat ſingulis quod hujuſmodi libertates de Jure naturali vel gentium ad Coronam tantum pertineaut.* *Fleta lib. 3. ca. 6. ſect. 2. & 3.*

And that great King was ſo more then ordinarily carefull of the rights and Honor of his Crown and Regall authority, which had been too much depreſſed and miſuſed by the Rebellion of *Simon Montfort*, and ſome Rebellious Barons, and his fathers Impriſonment, with the Wars and Hardſhips put upon them, & did ſo well provide againſt any the like troubles and Convulſions of State, as in his return through *France*, and abode for ſome time in *Aquitain*, where he was Sumptuouſly feaſted by the King of *France* he took an eſpeciall care when he did Homage to him for *Aquitain* and ſome other Dominions he held of him in that Kingdom, to limit it only unto them and except *Normandy*, where he expended much time in the Setling of his affairs. *Daniels Hiſt. 184.191.192.*

But howſoever *Summus ille viz* our Mr *Selden* was of opinion that ſo remarkable a proviſion and Monarchical Reſolution of our King *Edward* the firſt and ſo many Emperors and Chriſtian Kings and Princes to conſerve the rights of their Crowns reported by *Fleta*, was Prodigious, and taken too much upon truſt and an over facile credulity of our *Carceratus Fleta* as he termed him becauſe reſumptions of the Sacred Patrimonies aliened had been uſed here in *England* long before and not uſed at or about the ſame Time by *Rodulphus primus* the Emperor of *Germany* when he granted to Pope *Gregory* the 10th, *Bononia* (in *Italy*) *et latifunda circum*

cum quaque ampliſſima quæ ante Imperii Romani pars inſignis and permitted to be aliened to the *Pope* who was not then ſo eaſy to be reſiſted; and that *Choppinus* and thoſe many great and learned Doctors of the Law that had written and argued ſo much concerning thoſe kind of alienations and our own Hiſtorians had been altogether ſilent therein yet that *Decus Anglorum gentis* might in his great recherches of our *Engliſh* Records Laws and Annalls have found that our King *Edward* might have been believed to have taken ſuch Councel either from his former calamities, in his & his fathers Time, or by a generall Conſult with ſome or all of thoſe Chriſtian Princes or their Legates for that he was no ſooner arrived in his own Kingdom and Dominions but he began to buſy himſelf as much as his other great Cares and Variety of troubles would Suffer him to do in the allaying the Unquietneſs of the Diſturbances which *Humfrey do Bohun* Conſtable of *England*, *Rigor Bigod*, Earl Marſhall of *England*, *Gilbert de Clare* Earl of *Gloceſter* and many other the remains of his fathers more then Cammon Diſtreſſes, and in his Wars with *Scotland* and annexing the Rights and Superiority of it to his Crown of *England* in the placing & diſplacing of the Kings and Heirs thereof a Regality Superlative not to be neglected and an effect pertinent enough to that *Monarchick* Univerſall conſult; when in the fourth year of his Reign an Enquiry was made of all the Manors and Lands, Tenements, Parks, Buildings, Woods, Tenants, Commons, Paſtures, Pawnage, Honey, Herbage, and all other profits of Forreſts, Waters, Moors, Marſhes, Heaths, Turbury and Waſts, and how much it was worth by the year, Mills, Fiſhings Common and ſeverall Freeholders and Copyholders, by what Service they did hold their Land by *Knight* Service or in *Socage*, and what reliefs what Cuſtomary Tenants and by what works or Service they did hold; what rents of Aſſiſe what Cotages and Curtilages and what rents they do pay by the Year, what pleas and exquiſites of the Counties and of the Forreſts and what they were worth by the Year, what Churches of what Yearly value and who was the Patron with the yearly value of Herriotts Fairs Markets Eſcheats Cuſtomes Services fore Time Works and Cuſtoms and what the pleas and perquiſites of Courts Fines & all other Caſualties were worth by the Year or may fall by any of thoſe things; an Inquiſition much reſembling that of the *Norman* villains enqueſt in the Book of Domeſday or that which long before preceded it called the Roll of *Wincheſter* and in his elaborate recherches of all the

Ancient

Ancient Records Annalls Hiſtorians Manuſcripts and Memorialls of the *Britiſh Saxon Scotiſh* and *Engliſh* Nations for the clear Evidence and manifeſtation of his Undoubted Right to *Jus Superioritatis* of tke Kingdom of *Scotland*.

And in the ſame Year what things a *Coroner* ſhould enquire of purpreſtures or uſurpation upon any of the Kings Lands and that they ſhould be reſeiſed. *Statute Coronatoris Anno 4. E. 1.*

A Statute of the Exchecquer touching the recovery of the Kings Debts made in *Anno* 10. *E.* 1. *Statute de Bigamis eodem Anno.*

A *Ceſſavit per Biennium* to be brought by the Chief Lord with a forfeiture upon him that neglecteth to do his ſervice by the ſpace of 2 Years. *Statute of the Exchequer or Rutbland. Weſtminſter 2. 13. E. 1. ca. 16.*

In *Anno* 17. Fined 10 of 12 of his Judges accuſed and indicted of taking Bribes and very great ſumms of Mony Statute of *quia Emptores terrarum* that the Feoffs ſhall hold his lands of the Chief Lord and not of the Feoffer. *Quia Emptores terr. 18. E. ca. 1.*

And afterwards cauſed the Judges at their return out of their Circuits to rectify in rolls of Parchment all Fines and amercements due unto him and ordered them to receive only their then ſmall Wages thereout, curbed the Clergy that denied to give him Aids, and forbad them to come to his Parliament which was holden, untill their Submiſſion with a *Clero Excluſo* and granted his Writs *contra Impugnatores Jurium Regis*, made 2 Statutes of *Quo Warranto* in 18. *E.* 1. that every man ſhould ſhew cauſe how he claimed or held his Liberties. *Inter record apud recept Socii tempore E. 1.* 18. *E.* 1.

Ordinatio de libertatibus perquirendis 27. E. 1. 27. *E.* 1.

Statute of *Wards and Reliefs* Anno. 28. *E.* 1. 28. *E.* 1.

Another Statute of *Quo Warranto.* Anno. 30. E. 1. 30. *E.* 1.

Ordinatio Forreſtæ Anno. 33. E. 1. 33. *E.* 1.

So that *pace tanti viri* with all the honor and reverence that can or ought to be given to Mr *Selden* that *Dictator* of Univerſal & Solid Learning it may be ſaid that our *Fleta* which was by him ſo well eſteemed as to have been publiſhed and cauſed to be printed with his learned diſſertations and Comment thereupon might well have eſcaped his ſcruples and diſtruſt, when in that great Kings travail from *Hieruſalem* or out of *Aba* homewards he was royally feaſted by the King of *Sicily* one of the aforeſaid Confederate Chriſtian Kings the Pope and divers Princes of *Italy*. *Daniel* in the Life of King E. 1.

And when the Pope had afterwards demanded 8 Years arrears of him for an Yearly tribute of 1000. Marks for the Kingdom of *England* and *Ireland* enforced from King *John* did by his letter anſwer that the Parliament was diſſolved before his letter

came unto his hands and that *sine Prælatis & Proceribus* (no Commons therein mentioned) *comunicato Concilio sanctitati suæ super præmissis non potuit respondere & Jurejurando in Coronatio sua prestita fuit astrictus quod Jurat regni sui servabit illibata nec aliquid quod Diadema tangit regni ejusdem,* (no such Oath or Promise being in the Coronation Oath) *ut nihil abusq ; illorum requisito Concilio faceret ;* And that greatly learned man could not but acknowledge that there were afterwards resumptions of Crown-Lands in the Reign of King *Henry* the 2. the alienation of some of the Crown-Lands severely charged upon King *Richard* the 2d. *Anno* 33. *H* 6. by an Act of Parliament and in the reign of King *Edward* the 4th, at the request and upon the Petition of the Commons, and were much more needfull then those that had been before in the Reign of King *Henry* the 2. made *Leoline* Prince of *Wales* to come and do him Homage and *Baliel* King of *Scotland* attending in our P rliament to arise from his State placed by the Kings and Stand at the Bar of the House of Peers whilst a cause was pleaded against him.

3. E. 1. Ro Claus m 9. & Seldens tit. of honor,

Ro part 1.mo. E. 4.

And it might not be improbable that that League betwixt that King and the aforesaid Christian Princes might be entred not amongst the Common Rolls and records of *England* but of *Gascoigne* where it was most proper and that some *Vestigia* of his great Actions might be there found of it as well as that of the 22th Year of his Reign of a Summons of divers *English* Barons to come to his great Councell or Parliament, in *England* ; and it could not be unknown to that great man of learning, that as Authors and Writers have learned and Writ one out of another, so have many Wrote that singly and alone which many of the Contemporaries have either not been Informed of or did not think fit to Mention the dreadfull plagues of *Egipt* and the most remarkable that ever were in so short a Time inflicted by God upon any Nation of the Earth, since the universall Deluge, destroying all but the Righteous *Noah* & his Family & the several Kinds of Creatures perserved with him, & the passage of *Moses* thorough the Red-Sea in his conduct of the People of *Israel* into the land of *Canaan* were not to be thrown out of the belief of Christians & all others Venerating the Sacred Scriptures, because *Plato* or *Pythagoras* travailing into *Egypt* in the inquest of learning have given us no particular accompts thereof, and it will ever be as truly said as it hath been, that *Bernardus non videt omnia* & the ancient institution rites & ceremonies of the most Honourable Garter is not to be suspected because our Law and Statute-books have

Ro. Vascon. 22. E. 1.

not

not made ſuch Diſcoveries, Recherches, or a worthy and moſt elaborate Record thereof as the learned and Judicious *Mr Elias Aſhmole* hath lately done, or our *Glauviles* Book *de legibus & Conſuetudinibus Angliæ* is not to fall under the queſtion whether he was the Lord Chief Juſtice of *England* that Wrote it becauſe there hath not been ſo much heed taken of him as ought to be by our Common-Law Year-Books or Memorialls of Caſes adjudged in our Courts of Juſtice and later Law Books when the learned *Pancirollo* in his Book *de deperditis Ac etiam de novis repertis* and the exquiſitely learned *Salmuthius* in his Comment or Annotations thereupon, or the learned *Paſquier* in his *Recherches* and our ever to be honored *Mr Selden* in his reſcuing from the Injuries of Time thoſe many before hidden truths which he in his hiſtory of Tithes *Jauus Anglorum Analett Brittanniæ* Titles of honor *de Synedriis Judeorum uxor Jus naturæ & Gentium Hiſtoria Eadmei cum multis aliis*, and thoſe very many diſcoveries of learning and Truth which the world muſt ever confeſs ought to be attributed to his walking in unknown paths *nullius ante trita pede* have very Juſtly eſcaped any ſuch ſuſpicions and that long and Eminent Treaty for Peace at *Nimiguen* for divers Years laſt paſt managed by moſt of the Monarchs of *Europe* and their concerns wherein the care and mediation of our King in the charge of his Plenipotentiaries have not wanted gratefull Teſtimonialls of the many very much concerned Kings and Princes in the puttiug a ſtop to the Warrs effuſion of Blood and devaſtation of ſo great a part of Chriſtendom is not or ought to be placed amongſt the *non liquets* or Doubtings of after Ages becauſe (which by ſome *Incuria* or neglect of our Recording of it amongſt our *Archives*, which the more is to be pittied is not much unlikely to happen) it is not to be met with amongſt our Records or Hiſtorians.

Recueil de tons les traiter entre les potentats de l' Europe a Nimegne.

When the ſo much Deſervedly admired ſpeculations and Experiments of the excelently Learned *Sr Francis Bacon* Lord *Verulam* in his Philoſophy more then *Ariſtotle* and many others had made thoſe Diſcoveries of *des Cartes*, Depths and Inveſtigations of our Sr *Kenelme Digby* into the moſt abſtruſe parts of Learning and that great addition now every where allowed to be true to that moſt neceſſary and uſefull Art or Faculty of *Phyſick* of the circulation of the Blood in the Bodies of men firſt Diſcovered and made apparent by our late Learned Doctor *Harvey*, though the *Egiptian Arabian* and *Grecian* Doctors and the greatly Famed *Galen* and *Hypocrates* had in all their labors knowledge and Practice not ſo much

as

as taken notice of it were never the worſe but rather much the better that former ages and men in the length of Art and the ſhort *Curriculum* of their lives often intermitted with Sickneſs and the Cares and Troubles of the World had no ſooner communicated it neither ought the Truth and value of our allways highly to be eſteemed *Seldens* Labours in the vindication of our Kings Sovereignty in our *Brittiſh* Seas ſuffer any abate becauſe no *Engliſhman* before had undertaken it, or of his learned Obſervations and Comments upon Sr *John Forteſcues* Book *de laudibus Legum Angliæ* becauſe he did not mention or had Diſcovered that that over-toſſed and turmoiled worthy and learned Chancellor was after the Expulſion of the 3 *Henrys* 4. 5. 6th, of the Houſe of *Lancaſter* under the later of whom he had Faithfully ſerved from the Inheritance of the Crown of *England* by King *Edward* the Fourth, with his better Title enforced publickly to beg his Patdon and with much ado and by Writing and delivering unto him a Book contradicting the Title of thoſe former Kings and aſſerting that of his own, which appeareth in that Act of Parliament in the 13th Year of that King for the Reverſall of his Attainder.

And thoſe diſturbers and miſuſes of our Fundamental Laws might do well to ſit down and conſider that our uncontrolled every where in *England* venerable *Littleton* can certify us, that if a man hold Land of his Lord by *Fealty* only for all manner of ſervice, it behoveth that he ought to do ſome ſervice to his Lord, for if the Tenant ought to do no manner of ſervice to his Lord or his Heirs, then by long Continuance of time it would grow out of memory whether the Land were holden of the Lord or his Heirs, and thereupon the Lord may looſe his Eſcheat of the Land or ſome other Forfeiture, ſo it is reaſon that the Lord and his Heirs have ſome ſervice done unto them to prove and teſtify that the Land is holden of them and that without taking away the Fealty and repealing the Oaths of Allegeance and Supremacy the Duty and Oaths of the Subjects remained as they did whilſt they held their Land in *Capite* and by *Knight Service*.

Coke Comment ſup. Littleton. 1. part Inſtit. ca. 5. tit. Socage.

Which probably as may ſadly be lamented could never have hapned if the later men of the Law in *England* had not by the ſpace of ſomething more then Forty Years, laſt paſt, leaped over (as it may be feared they have overmuch done) the ſucceſſive learned labours and Books in a long proceſs of Time in the Reign of our Regnant Kings and Princes divers Judges and Sages of our Laws Recording from Time to Time Caſes Judgments

Judgments Decrees and Diciſions maturely and Deliberately adjudged therein: But too much neglected thoſe guidings better guides and faithfull Directors the Civill and Feudall Laws, and ſuffred their Studies and practice to be imployed and incouraged in the Factious Seditious & Rebellious principles of thoſe Times, by following the groſs Miſtakes of Sr *Edward Coke* in his Diſcontent malevolence and Ill will unto the neceſſary and legall Regalities of the Crown and Idolizing, as he did, thoſe grand parcells of forgery and Impoſture entitled the *Mirrour of* Juſtice, and the *Modus tenendi Parliamentum*, and their neglecting the readings of *Glanvile*, *Bracton* and *Britton*, and other good Authors.

And the Civil Law was the Parent and Mother of many of the maximes and principles of that which is now called our Common Law, And thoſe men of the Law who without Books ſubſiſtence or Eſtates, when they went beyond the Seas, with their Sovereign, and had not there the opportunities of the Knowledge or help of the Records of the Kingdom that might have been their beſt Inſtructers, were for the moſt part but Young Gentlemen Born and Bred in the times of our Diſtempered Parliaments, (as thoſe were that Tarried here, who walked along with the Rebellion, too much adhered unto them) and came Weather-beaten again with his Majeſty, had underſtood as they might have done, the Originall Foundation and Continuance of our Monarchick Government.

But King *Edward* the 1. who had paſſed over and overcome ſo many Hardſhips, Difficulties, Misfortunes, and Storms of State, was ſo unwilling to be afraid of a part of his Unquiet Baronage, or to Humour the popularity and ignorance of any of the Common People, or to be in fear of them, or of any their Factious or Seditious Machinations, making what haſt his affairs would permit to retnrn into *England*, where his father having by his Death eſcaped the reſtleſs conflicts of a long and troubleſome Reign, and his Exequies and Ceremonies of buriall performed, *Robertus Kilwarby, Cantuarienſis Archiepiſcopus, Gilbertus de Claro Comes Gloverinæ*, (a man that had been in Armes and oppoſite enough againſt his father and himſelf in the former convulſions of State) and *John Warren Earl of Surrey* (ſaith *Samuel Daniel* went up to the High Altar) *cum aliis Prælatis ac Regni proceribus Londiniis apud novum Templum convenerunt Edwardum abſentem Dominum ſuum Ligeam recognoverunt paternique Succeſſorem honoris ordinaverunt aſſenſu Reginæ* (*non Populi*) and

Walſingham Hiſt. E. & Sc. Daniel Hiſt. E. 1.

before his return into *England John* Earl *Warren* and *Gilbert de Clare* Earl of *Glouceſter* in the Abby Church of *Weſtminſter* ſware unto him Fealty (without asking leave of the People) and proclaimed him King, although they knew not whether he were Living or Dead, cauſed a new great Seal to be made, and appointed ſix Commiſſioners for the Cuſtody of his Treaſure and Peace, whilſt he remained in *Palaſtine*, where by an Aſſaſſin feigning to Deliver Letters unto him, he received 3 Dangerous Wounds with a poyſoned knife (then ſaid and believed to have been cured by the Love of his Lady, that Paragon of Wives and Women, who ſucked the Poyſon out of the Wound, when others refuſed the adventure) and after 3 Years Travail from the time of his ſetting forth, many conflicts and Diſappointments of his aids and Ends, left *Acon* well fortified and manned, and returned homewards, in which as he travailed, he was Royally feaſted by the Pope, and princes of *Italy*, whence he came towards *Burgundy*, where he was at the foot of the *Alpes* met by Divers of the *Engliſh* Nobility, and being Challenged to a Tournament by the Earl of *Chalboun*, a man of extraordinary Renown, Succeſsfully hazarded his Perſon to manifeſt his valour. thence came again into *England*, with the great advantages of his Wiſdom, Courage, and Reputation, aſſiſted by the memory of the fortunate Battle at *Eveſham*, and his Actions in the *Eaſt*.

Daniel in the Life & Reign of King *E.* 1.

SECT. XVIII.

Of the Methods and Courſes which King Edward *the* 1. *held and took in the Reformation and Cure of the Former* State *Diſeaſes and Diſtempers.*

KIng *Edward* the 1ſt, was together with his Queen Crowned at *Weſtminſter* by *Robert* Archbiſhop of *Canterbury*, (*Alexander* King of *Scotland* and *John* Duke of *Britanny* attending that Solemnity) which being finiſhed he ſhortly after forced *Leoline* Prince of *Wales* (who had taken part with *Montfort* againſt his Father King *Henry* the third) to do him Homage, and after a Revolt impriſoned and beheaded him, did the like to his brother *David*, and United *Wales* as a Province to *England*, made the Statute of *Snowden*, conſidered and peruſed their Laws, allowed ſome, repealed others collected ſome, and added new, as he well might there do, (for the Prince or King which Governed *Wales* had always uſed

Plowdens Comment in le caſe inter Bulkley & Ricco Thomas.

ſo

ſo to do) and appointed one to give his aſſent to the Election of Biſhops and Abbots.

And as willing to rectify the Laws of *England* and make them conformable to their ancient fundamental Feudal Laws, and not overmuch ſtrangers to the Civil or *Cæſarean* Laws, and in order thereunto ſent unto *Franciſcus Accurſius* Doct or of Laws reſident at *Bononia* in *Italy*, the ſon of the famous *Accurſius* the Civil Lawyer, to come with his wife and family into *England*, and by his writ to the Sheriff of *Oxfordſhire* commanded him to deliver unto the ſaid Doctor *Accurſius* the King's Manor houſe and Caſtle of *Oxford* (then no mean place) for him and his wife to Inhabit. *Ro. pa. 4. E. 1. m. 35. & Seldeni diſſertatio ad Fletam 526.*

Did ſo imitate the wiſdom and providence of the *Roman* and *Cæſarean* laws, as *Auguſtus Cæſar*, and other of the Succeeding Emperours had done, as he gave unto men learned in the laws (which was more for the peoples good than in their ſuits and actions at law to court and live under the protection and humors of their popular Patroni's) *libertatem reſpondendi* to give counſel and advice to their clients in their concernments at law, and direct and plead their cauſes, and was with us in *England* the original of our Serjeants at law, and pleaders mentioned in the Statute made in the 3d year of hisReign, with great penalties to be inflicted upon them for any falſhoods or deceits which ſhould be committed by them, which in the 3d year of the Reign of King *Edward* the 2*d* came to be ſo much in uſe and reputation (much more ſince augmented by the grace and permiſſion of our Kings and Princes into an eminent State and degree) as they are only to be made and conſtituted by the King's writs, appointed for the people to help them to Juſtice in their cauſes or actions either as to Proſecute for their Rights, or defend them from wrongs, and oppreſſions, and intimate, and ſhew unto Judges what the laws do require to be done according to Juſtice and equity, and muſt needs be grateful to the people who were ſo thereby freed from maintenance, champerty, and quarrels too frequently haunting the courts of Juſtice, as it was enough for an advocate or Lawyer in diſcharging himſelf from actions brought againſt him for Champerty or maintenance, to plead that he is *Homo legis*, and was retained by his Client. *Forſterus de juris prudentia Rom.* 3 E. 1. ca. 2. *Ro. Claus.* 3. E. 2.

Although

Although the word *Narrator* or *Narratores* pleaders have been found to have been uſed in the later end of the Reign of King *Henry* the 3. which might either proceed from the Civil or *Cæſarean* Laws whereof the Lawyers of thoſe Times would have been aſhamed to have been ſuch profeſt Enemies as ſome of ours are pleaſed to be, becauſe they do not or cannot afford to underſtand their excellencies, or from the uſe or miſapplication of ſome newly Deviſed *Verba Novata* by ſome raſh or inconſiderable Authors or Writers unto ſome long before by gone and paſt ages ſuch as *Hint*, *Sham*, &c. not at all in thoſe Times made uſe of or underſtood, which have produced great Digladiations and Diſputes both amongſt Writers and Readers, and made many that otherwiſe would not or ſhould not, go to Cuffs in the Dark for little or nothing.

And to ſatisfy his Subjects in the grand concernments of their Laws and Liberties, Lives and Eſtates, and to cauſe them to be fully kept, and Executed, ſent his Writs to his Juſtice of *Cheſter*, and the Sheriffs of all the Counties of *England* in theſe Words, *viz.*

Ro. pat. de An. 3. E. 1. m. 10. de Statutis legend. & proclaimed. in Com. Ceſt & alibi.

Cum propter communem utilitatem & totius Regni noſtri melioracionem, & populi noſtri relevationem de Communi concilio Prælatorum & Magnatum Regni ejuſdem (no Knights, or Citizens, and Burgeſſes for the Commonalty being then preſent, or believed to have been neceſſary) *quaſdam proviſiones & quædam Statuta cum magna diligentia ordinari & poſtmodum ſigillo noſtro ſignari fecerimus tam a nobis quam a miniſtris noſtris quibuſcunque quam ab ipſis Prælatis & Magnatibus noſtris ac tota communitate Regni prædicti* (then underſtood to be included in the advice of the Prelates and Nobility) *ad perpetuam memoriam rei geſtæ inviolabiliter obſervand. vobis mandamus in fide & dilectione quibus nobis tenemini firmiter injungentes quod proviſiones & Statuta illa in pleno Com. Ceſtr. & in ſingulis Hundredis ejuſdem Comitatus, Civitatibus, Burgis, Villis, Mercatoriis, & locis aliis ubi expedire videritis legi & publice & ſolempniter proclamari, & ea in omnibus & ſingulis articulis articulis ſuis & ab omnibus de balliva veſtra futuris temporibus juxta tenorem eorundem firmiter & inviolabiliter obſervari, & proviſionibus & Statutis illis ſic proclamatis, & ea in ſingulis locis infra ballivam veſtram ubi expediri videritis diſtinct. & aperte conſcribi, & ea fidelibus noſtris locorum illorum ſic Scripta ſine dilatione liberari vobis ac ballivis & fidelibus noſtris habere cum eis indigueritis oſtendenda, & quatuor vel ducbus militibus de fidelioribus & diſcretioribus militibus Comi-*

tatus

tatus prædicti de assensu totius communitatis tradi faciatis (those Knights only and no Citizens or Burgesses trusted therein) *ad Securitatem dictæ communitatis Custodiend. & ita vos habeatis in hoc mandato nostro exequendo ne nobis seu aliis per vos vel vestros seu vobis per defectum vestrum vel vestrorum imputari possit vel debeat quod ea quæ in dictis provisionibus & Statutis continentur vel eorum aliquæ in ballivâ vestra minus plene observentur, & hoc vobis & universitati Comitatus prædicti tenore presentium significamus*, T. R. *apud Westm.* 28 *die Mar. consimiles literæ diriguntur singulis Vice comitibus per Angliam*, which needed not to have been said there if there had then been an House of Commons in Parliament or any such comprehension or representation of Commons by Commons in Parliament as the Authors of their supposed Sovereignty have fondly imagined.

And at the instance of *John de Cobham* altering the tenure of some of his Lands in *Gavel-kind*, did it by his Charter in these Words, *ad Regis celsitudinis potestatem pertinet & officium ut partium suarum leges & consuetudines quas justas & utiles censuerit, ratas habeat & observari faciat inconcussas, illas autem quæ regni robur diminuer potius quam augere & conservare abolere convenit aut saltem in melius commutare.* 4. E. 1. ro cart. m 3. parte 17. aut potius parte 3. m. 17.

Directed his Writ to *Roger de Seyton* and other his Justices Itinerant at the *Tower* of *London* in these Words, *viz.*

Rex dilectis & fidelibus suis Magistro de Seyton & Sociis suis Justiciariis Itinerantibus apud Turrim London, *Salutem. Sciatis quod per dominum H. Regem patrem nostrum & nos, ac Consilium, nec non & alios fideles suos qui cum eodem patre nostro convenerant apud Marleberge provisum fuit, quod si coram quibuscumque Justiciariis Itinerantibus appellum vel querimonia fieret de roberia & pace fracta vel homicidio aut aliis commissis tempore guerræ nuper suborte versus eos qui fuerunt contra eundem patrem nostrum vel alios, aut de hujusmodi commissis presentationes fierent sicut ad Capitula Coronæ fieri solent, nullus ea occasione amitteret vitam vel membra, aut penam perpetui Carceris incurreret, set alio modo de dampnis & amissis vel ablatis & transgressionibus fieret Judicia & castigatio secundum discretionem Justiciariorum dicti patris nostri & insuper diligenter attenderent & observarent ea que continentur in dicto de Kenilleworth.* Clause Ann. 4. E. 1. m. 15. dorso.

Et habeant Justiciarii in singulis Itineribus suis transcriptum dicti prefati, Ita quod de his quæ per alios Justiciarios ipsius patris nostri ad hoc assignatos termina fuissent seu terminari deberent, nichil facerent Justiciarii dicti patris nostri Itinerantes

ſine ſpeciali mandato ſuo, ſi forte ſibi idem pater noſter aliquid injungeret & ſciendum quod tempus guerræ incepit a quarto die Aprilis Anno. Regni dicti patris noſtri 48 *quando vexillis explicatis exivit cum exercitu ſuo ab Oxonia verſus Northt. & duravit continue uſque Sextum decimum diem Septembris Anno Regni dicti patris noſtri xl. nono quando apud Wyntouiam pacem ſuam poſt bellum de Eveſham in preſentia Baronum ſuorum qui ibidem convenerant firmari fecit & clamari;* (no Commons or Knights or Burgeſſes repreſenting for them) *Proviſium fuit etiam ne aliquis amittteret vitam vel membra pro Roberiis aut homicidiis aut aliis commiſſis ſub ſpecie guerræ per illos qui contradictum patrem noſtrum erant a quarto die Junii Anno Regni ejuſdem patris noſtri xlvii. quando illi vexillis explicatis primo per terram ſuam incedentes roberius homicidia & incarceraciones tam perſonis Eccleſiaſticis quam ſecularibus feceſunt uſque ad predictum tempus quo ab Oxonia verſus Northt. cum exercitu ſuo receſſit. De aliis autem quæ tempore illo ſub ſpecie guerræ non fiebant haberetur tempus illus velnd tempus pacis. A tempore autem ſupradicto quo apud Winton pacem ſuam firmari fecit & clamari, curreret Lex pro ut tempore pacis currere conſuevit. Ita tamen quod illi qui fuerint apud Axeholm. ſive apud Kenill, vel Inſula Elyens. vel apud Ceſtrefeld vel poſtmodum apud Sumerk obſervaretur plene pax ſua prout eam habere deberent ſive per dictum de Kenileworth ſive per privilegia ſua de pace ſua ſibi conceſſa. De illis autem qui cum Com. Glovernix in ultima turbatione fuerunt, obſervaretur pax facta inter dictum patrem noſtrum & ipſum Com. Ita quod a tempore quo dicto Comes receſſit a Wall. verſus London. uſque ad diem quo receſſit a Civitate prædict. non procederent Juſtic. contra ipſum vel eos qui erant in parte ſua. Et hoc de illis tantummodo intelligeretur. De depredationibus autem utrobique factis & tempore prædicto obſervaretur hoc quod pace inter dictum patrem noſtrum & ipſum Comitem facta continetur. Et ideo vobis mandamus quod hec omnia in prefato Itinere diligenter obſervari faciatis. T. R. apud* Kickleton. *xix.* die *Marc.*

6. *E.* 1. He commanded the Sheriffs to diſtrain every man that had 20 l. *per Annum*, in Land, or a whole Knights Fee of the like value, and hold of him *in Capite & milites eſſe debent & ad arma militaria* within ſuch a Time *a nobis ſuſcipiend.* which was like a Nurſery for military affairs for the continuance of thoſe gallant neceſſaries for publique Defence in and by the obligations of their Tenures, wherein a great part of our Fundamentall Laws, Oaths of Allegeance, Loyalty, and Duties of Subjects do ſubſiſt.

And

And by an Inquiſition taken in the ſame Year at *Launceſton in Cornwall* by a Commiſſion out of his Court of Exchequer, it was found by a Jury that *Dominus ratione Regiæ dignitatis & Coronæ ſuæ habet privilegium quod nullus in Regno ſuo aliquo qui ſit de Regno Angliæ alieni homagium ſine fidelitatem facere debeat vel aliquis hujuſmodi homagium vel fidelitatem ab aliquo recepire debeat niſi facta mentione de fidelitate domino Regi debita eidem Dominus Regi obſervanda Epiſcopus Exon adfuit contrarium &c. Et in contemptu, &c. Et le Eveſque mis a reſpond.*

And like a ſecond *Juſtitian* did cauſe *John le Breton* one of the Juſticcs of the King's-bench, Or, as others have written, Biſhop of *Hereford*, to compile in his name a Book of the Laws and Cuſtoms of *England*, wherein the King directing the Book to all the People, which were under his protection *par la Soufrance de Dieu*, ſaith, for that peace could not be without Laws, he had cauſed thoſe which had been heretofore uſed in his Realm to be put in Writing, which he Willed and Commanded ſhould be Obſerved in all *England* and *Ireland*, *en toutz pointz Sauve a nous de repealer & de cunoiter, & d'amander a toutz les faitz que nous verron que bon a nous ſerra par l'aſſent de nos Countes & de nos Barons & autres de noſtre Conceil Sauve les uſages a ceux que preſcription de temps oul autrement uſe en taint que leur uſages ſoyent mys diſcordants a droiture*; in which Book and the *Droits de Roy* there is no mention made of the Election and Summoning of Knights of the Shires, Citizens and Burgeſſes, to Parliament.

Dugdales Orig. juridic. 56. Vc. Seldeni naiæ in Hengham & Bretons.

6. E. 1.

Britton 1 & ca. 15. & 19.

By his Edict or Proclamation prohibited the burning of Seacole in *London* and the Suburbs thereof for avoiding its noyſom Smoak; and without any Act of Parliament divided *Wales* into Shires, and ordained Sheriffs there as was uſed in *England*; cauſed ſome *London* Bakers not making their bread as they ought, to be drawn upon Hurdles and 3 men for reſcuing a priſoner arreſted by an Officer to have their right hands cut off by the Wriſts.

Fined without advice or aſſent of Parliament (which might well be ſo underſtood to have been ſo upon the Act of Parliament in *Anno* 3 of his Reign, ordained that ſuch offenders ſhould be ranſomed and Puniſhed at the Kings Will and Pleaſure) Sr *Ralph Hengham* Chief Juſtice of his Bench 7000 Marks, Sr *John Lovetot* Chief Juſtice of the Common Pleas 3000 Marks, Sr *William Brompton* 6000 Marks, Sr *Solomon Rocheſter* (or *Roffey*) 4000 Marks, Sr *Richard*

Sir Richard Bakers Chronicle Speeds Hiſt. of Great Britain.

Speeds Hiſt. of *England* in the Reign of King *Edward* the 1ſt. and *Spelmans gloſ. in catalog. Juſticiar.*

Richard Boyland as much, Sr *Thomas Sodenton* 2000 Marks, Sr *William Saham* 3000 Marks, *Roobert Littlebury* Clark *Maſter* of the Rolls 1000 Marks, *Roger Leiceſter* no leſs, *Henry Bray* Eſcheator and Juſtice of the *Jews* 1000 Marks, *Sr Adam Stratton* Chief Baron of the Exchequer 34000 Marks, and *Thomas de Weyland* being the greateſt delinquent and of the greateſt ſubſtance, could not be ſo eaſily excuſed, but was Baniſhed and had all his Goods and Eſtate Confiſcate to the King, only *John de Metingham* & *Elias de Beckingham* (two of the itinerant Judges, to their eternall honour, ſaith *Henry Spelman* appearing Guiltleſs and Righteous in that ſevere and Kingly examination and Juſtice) purged his Courts of Juſtice and the Officers and clarks thereof from Bribery and extortion, baniſhed the uſury of the *Jews*, hanged 297. of them for abuſing the Coyn and Money of the Kingdom, curbed the pretended Independent power of the Clergy, Clipped their Juriſdictions, and upon their refuſall to pay Tallage towards his Wars, Seized many of their Temporallities, put them out of the protection of his Laws and Juſtice and cauſed them to be excluded out of one of his Parliaments untill their Submiſſion, whom he had by wofull experience underſtood to have had too great an Influence upon ſome of the unquiet Nobility.

Walſingham ſpodigma Neuſtriæ 491 492. 493. & 494.

Made himſelf the Arbitrator and Umpire betwixt the many great Pretenders to the Crown of *Scotland*, amongſt which was *Erick* King of *Norway*, and received the homage of the King thereof, and in his Claim to the Superiority ſtrongly Aſſerted it, when the Pope had by his Letter unto him mediated on the behalf of the King of *Scotland*, and claimed that Kingdom.

And was ſo watchfull over his own Rights and what belonged to his Crown and Dignity, as upon an appeal from *John Baliol* King of *Scotland* and his Parliament to the Parliament and Court of the K of *England*, unto which when he was Summoned perſonally to appear before him, & appearing, ſate with him in Parliament, was Suffered no longer to ſit by him, but untill the Cauſe came to be heard, when he was cited by an Officer to leave his Seat, and Commanded to ſtand at the Barr appointed for pleading, which he having no mind to do craved leave to anſwer by his procurator, but was denied, and as a Feudatory made to ariſe and deſcend to the Barr, and defend his own Cauſe before him as his Superiour.

Which by the Ancient feudall, Fundamentall Laws of *England* without the aſſiſtance of any other of our Laws concerning

cerning Treaſon, might have excuſed and Juſtified our excellently virtuous Queen *Elizabeth* in her unwilling Tryall, Condemning Beheading and putting to Death *Mary* Queen of *Scotland* her Feudatory, not only for Uſurping the Arms and Title of the Crown of *England*, but plotting after her flying for Refuge unto her, and her Kingdom of *Scotlands* Superior for Reſuge, to bereave her of her Kingdom of *England* and the Dominions thereof, by her intended Marriage of the Duke of *Norfolk*, for which he was likewiſe condemned and Executed for Treaſon.

In the ſame Year by his Writ commanded to be arreſted *Suſurrones & publicos predicatores contra perſonam Regis.*

In the 7th year of his reign upon occaſion of falſe rumours ſent his Commiſſioners into ſeverall Counties of the Kingdom, *ad inquirendum qui dicebant Regem inhibuiſſe ne quis blada ſua meteret, vel prata ſua falcaret, & quod omnes tales ſine dilatione in priſona cuſtodiantur douec authores ſuos invenerint & tunc liberent & authores in priſona cuſtodiant donec pro deliberatione corum mandatum habuerint Speciale.* 7. E. 1. ro. pat. m. 13.

In the 13th, Year of his Reign for a fine of 20 Marks paid by *W.* gave him a reſpite *de ſe militem faciendo. Et a pres il fut amerce per les Juſtices itinerant parceo q'il ne leur monſtre ſon Charter.* 1. E. ro. claus. m. 1.

In the 10th Year of his Reign granted authority to Signify his aſſent to a future Abbot. 10. E. 1. ro. pat. m. 2.

And in the ſame year impowred *Edmond* Earl of *Cornwall* to admitt in his name the Mayor of *Oxon*, when the commonalty of the town ſhould preſent him, and the like for the Mayor and Sheriffs of *London.* 20. E. 1. ro. pat. m. 4.

In the 12th, Year of his Reign granted to the Citizens of *London* power to make Sheriffs of *London* and *Middleſex.* 12. E. 1. ro. Cart. m. 3.

In the 13th, Year of his Reign directed his Writts to the Sheriffs in the words enſuing, *cum de conſuetudine regni qui habent 20 libratas terræ vel feodum militis valens 20 libratas terræ vel feodum militis valens 20 libratas per annum diſtringerentur ad arma militaria ſuſcipiendum nos ob ſervitium &c. in Wallia a communitate regni noſtri volumus quod non habentes tantas libratas terræ non diſtringantur.* 13. E. 1. ro. Claus. m. 9.

Ordained that in Parliament certain Biſhops, Lords and Other their Aſſiſtants ſhould be named of that Honourable Aſſembly of Parliament at the very beginning thereof, which for many Ages after hath been duly obſerved, to be *receivers* and *tryers* of the Petitions, Complaints, and Deſires of his People to be exhibited therin whether properly to be there de- 13. E. 1.

termined or in the Courts of Juſtice in *Weſtminſter-Hall* or other inferior Courts.

In the 14th and 16, Years of his Reign made his couſin *Edmund* Earl of *Cornwall cuſtos regni.*

Spared not in his Court of Kings-bench *Robert* the Son of *William de Glanvile* and *Reginald* the Clark of the ſaid *William* for delivering at *Norwich* a Panell of the Kings Writs, which the King's Coroner ought to have brought.

Mich. 18. E. 2. Norf. ro. 46.

Baniſhed his Son *Prince Edward* from his Court & Preſence for 6 Months for giving reproachfull words to a great Officer of his Court or Houſhold.

Cauſed the Prior of the Holy *Trinity* in *London* and *Bogo de Clare* a man of great power and reputation to be arreſted at his ſuit by *Peter de Chanet* Steward of his houſhold, and *Walter de Fancourt* Marſhall of the King for citing *Edmond* Earle of *Cornewall* to appear before the Archbiſhop of *Canterbury* as he was paſſing thorough *Weſtminſter-Hall* to the Parliament whereupon the Prior and *Bogo* after ſome pleadings in the ſaid caſe ſubmitting themſelves unto the King's Grace, Will and Pleaſure, were committed to the Tower of *London*, there to remain during his Will and Pleaſure, and being afterwards Bailed the ſaid *Bogo* paid to the King a Fine of 2000 Marks, and gave ſecurity to the Earl for 1000. which by the interpoſition of the Biſhop of *Durham* and others of the King's Councell was afterwards remitted unto 100 l. and the Prior was left to the Judgment and proceſs of the Court of Exchecquer.

placit. Parl. 18. E. 1. n. 4. Ryleys placeis Parl. 6. 7. & Pryns aurum Regin.

In the 20th Year of his Reign *præcepit ſingulis vice Comitibus per Angliam & Juſtic. Ceſtr. quod proclamari facerent quod omnes qui habent 40. libratas terræ in feodo & hæreditate ſumerent militaria arma.*

ro claus. 20. E. 1 ro. fin. m. 25. & ro. pat ejuſdem anni. m. 5. & 17.

In that and the Year following ſeized the Lands of thoſe that would not take that Degree, and made ſpeciall reſpites to ſome during their lives.

Cauſed his Juſtices to certify into the Exchecquer at the return out of their Circuits by particular Rolls under their own Names the Fines and amerciaments ſet impoſed and forfeited upon Actions of treſpaſs, reſcous, deceit, attaints *non eſt factum* or falſe Pleas, untrue avowries, appeals of Murder, felony, manſlaughter, meyheim, Contempts and attachments upon proceſs out of any of his Courts, of Juſtice, abuſe of the Law, Fictitious actions, and vexatious Suits, Non-ſuits in Actions reall and perſonall, or when but part was found for the Plaintiff or Defendant, which were in thoſe Days as much for the

Cokes 8. report Beechers caſe in Anno. 6. Fac. & rot. Juſt. itin. tempore E. 1.

the advance and well ordering of Juſtice as they were for the Kings profit.

who took ſuch a care not to have it neglected, as by his Writ (without an Act of Parliament) he prefixt his Juſtices certain times for the cauſing the ſaid Monies to be levied, when their own then little Wages or Salaries were to be paid out of it which made them to be ſo exact therein as there was no fault deſerving a Juſt Puniſhment could eſcape the Eyes and Ears apprenſions and Watch of his regulated Juſtices, inſomuch as Offenders were Fined or amerced *pro falſo clamore* or *quia non invenerunt pleg.* for Deceipts, Sheriffs for not returning of Writs, Jurors for not appearing or *pro falſa appretiatione*, or giving verdicts before they were ſworn, Fined ſuch as threatned or abuſed them, and ſometimes the Common People that had occaſion to attend his Courts of Juſtice *pro garrulitate* or *irreverent Behaviour*, kept his Courts of Juſtice within their Centers, and Limits of Juriſdiction, held them to their juſt and legal forms of Pleadings *in verbis Curia*, and was ſevere againſt any of the Pleaders, Counters or Officers *pro Seductione Curiæ* as the Language of the Records of thoſe times did import for any Deceits or Colluſion miſleading or abuſing the eyes and ears of his Judges and the Clients, as well as the faithleſs Officers and Miniſters of his Courts of Juſtice, or in the Circuits of the Judges itinerant, and therein was ſomething leſs ſevere then the Law and Uſages were in the Reign of his Great Grandfathe *Henry* 2. when *William Fillius Nigelli* a Judge itinerant being *in miſericordia* of the King *pro defalt qui poſtea venit & cognovit quod emendavit rotulos Sine Sociis ſuis, & ideo in miſer.*

inter record apud receptæ Scris de tempore E. 1.

prælita in itinere apud Glou. tempore H. 2. *ro.* 1. 242.

Did not leave the grand Jurors ſo much Arbitrary Power, as too many now pleaſe themſelves to mind more where to have good Meat and Wine untill ſome ſeldom Indictments more for Malice then Love of Jnſtice or a care of their Oaths be brought unto them, but ordained their Charges not to be given in fine orations or ſpeeches, as ſoon gone out of their Memory as come in, but to put in Writing in diſtinct articles of enquiry, whereunto they were upon Oath to anſwer negatively or affirmatively, whereby the offences againſt the Laws Conſpiracies, Treaſons, Dangers, and Diſturbances, of the Nation were in the *Embrio's* ſtiſled, and as ſoon Diſcovered as hatched.

But the troubles and injuries forced upon the Crown, his Father, and Himſelf by the wicked attempts of *Simon Montfort*, and his Rebellious partners putting him in mind to make it

his buſineſs to give a ſtop to growing miſchiefs and prevent as much as was poſſible any thing of the like nature for the future, did find it neceſſary for the good of himſelf and the Kingdom, as the judicious Sr *Henry Spelman* hath recorded it, to leſſen thoſe high powers, authorities and priviledges, which the Chief Juſtices of *England* had before that time exerciſed and claimed as appurtenances to that great Office, as it were to be *Vicarias Regis, Pro Rex, & locum tenens Regis, Cuſtos regni & regni Guardianus in abſentiæ Regis, tanto etiam præ aliis omnibus emicuit Juſticiariis ut eiſdem ſuo brevi more regio, imperaret, & reſtraine ejus phteſtatem cancellis circumſcriptis arctioribus adeo ut ſe ſejunctum a rerum faſtigio & priſcæ amplitudinis forenſi ſolummodo negotio & judiciis exercendis eum abdicavit*, did by his Writ conſtitute the ſaid Chief Juſtice, and all that were to ſucceed him in that Office and place under the form and declaration only concerning the affairs and buſineſs, wherein he was to Officiate and be imployed in his Court of King's-bench rs by his Writ appeareth in theſe Words;

Spelmans gloſ. in diatriba de Jnſti. Angliæ 334.

Quia volumus quod ſitis Capitalis Juſticiarius noſter ad placita coram nobis tenenda, vobis mandamus quod Officio illo intendatis, Tmeipſo apud Weſtm, &c.

And in all probability *præteritorum memor*,

By ſad misfortunes warn'd learnt to beware
How dang'rous innovations ever are.

Well conſidering that if that contrived Writ of Elections gained by a rebellious force and impriſonment from his father almoſt 30 Years before, could have created in or to the Knights, Citizens, or Burgeſſes to be elected or brought into our King's greateſt councels of the higheſt and moſt important concernments of the weal publick of the Nation.

Any ſuch Rights or Priviledge, as ſome of their Succeſſors or Factious flatterers have ſince arrogated, yet ſo long a Diſcontinuance of a Priviledge not at all executed or veſted in them after a forfeiture incurred by the Cities of *London, Briſtoll, Glouceſter*, and the moſt of the Counties, Cities, or Boroughs, which had taken Arms againſt their King inſtead of their aid and aſſiſtance not very fully pardoned by any the Compoſitions or agreement made by King *Henry* the 3d, his Father by the *dictum de Kenilworth* after his Victory gained of them at the Battle of *Eveſham*.

And that notwithſtanding he might have taken in again his own juſt Rights and debarred them f om an after Invading or diſturbing of him therein, and that neither his Fathers Charters

ters nor his own Confirmation of all the Peoples Liberties and priviledges either in Words expreſſed in his Father's *Magna Charta* or *Charta de Foreſtæ*, or any way to be implyed within the verge or meaning thereof, could bind him to Continue ſuch a kind of Election of a ſeparate part, of the Vulgar or Common People, as *Simon Montfort*, and his Rebellious Complices had Traiterouſly deviſed, and that ſuch an attack of the Regall Government by the hoped for advantages of ſome, or intermedling ambition of others in matters wherein they had little or no underſtanding, or whereby they ſought only to accompliſh their own evil Deſigns, making them ever afterwards more induſtrious then they ſhould be to aſſociate the creeping Ivy with the Royall Oke, which by its clipping Kindneſs and drawing to it ſelf its Sap and nouriſhment, might at length Canker, enervate and deſtroy it.

Yet willing to ſhow them that he would as little as he could, recede from what had been granted as privileges and Liberties to his Subjects, and probably to pacify their then too much accuſtomed fears and jealouſies, and allure them into a courſe of obedience to thoſe Laws & proviſions which ſhould be made by the Privity and approbation of a Select number of the more wiſe and diſcreet part of his Common People, and give them experience of an Adage or worthy ſaying of his own in many or ſome of his reſcripts, *quod omnes tangit ab omnibus approbari debet* in ſome ſpeciall caſes, but not either by the laws of God, Nature, or Nations, or our laws always adjudged to be Requiſite or neceſſary.

And at the ſame time to leſſen, as *Mr Prynne*, *Sr William Dugdale*, and other weighty Authors have well obſerved, the Strength and power of a part of his ungovernable Baronage by counter-ballancing in ſome ſort their over-great power in his great councells or Parliaments, by Requiring and making uſe therein of the ſervice of the Knight Citizens and Burgeſſes fairly to be elected according to the intention of his writs, and Royall mandates, and acting according to the commiſſions or procurations which their Counties, Cities, or Boroughs ſhould lawfully give or truſt them withall.

Pryn in his Preface to the abridgement of the records in the Tower *of* London. *Dugdales Baronage.*

But ſo little approved of Popular elections and that which had been impoſed upon his Father, as he was unwilling to adventure upon any thing like it untill he had rectified many things, which he believed had been much of the cauſes of the Diſtempers in the Body Politick, and was to be warily done by a care and retrogradation, as much as might be, before he would condeſcend to pleaſe the People, which Some of them,

or thoſe that would make uſe of them began to be too fond of, and therefore could hardly bring himſelf to pleaſe them in that kind eſpecially when he could perceive the Nobility Diſliking and averſe unto it.

Howſoever with ſome Confidence believing it to be beyond any fear or Imagination that any Danger to the *Engliſh* Monarchy and Government ſo Anciently, rationally and well founded according to the Laws of God, Nature and Nations, Laws of the Land, and reaſonable Cuſtomes thereof could happen thereunto by the election of a part of the People Subordinate to the Nobility and Baronage as well Spirituall as Temporall *adſtricti legibus*, and obliged by their Tenures in *Capite* Homage and Fealty in the ſtrongeſt manner that the Wiſdom and Care of Mankind could deviſe, as bonds never to be ſhaken off and a tye upon their Eſtates, Bodies and Souls by their Oaths of Allegiance, Tenures, and Forfeiture of their Lands to be true and faithfull to their King and thoſe which they held of, or that they or any of their Poſterities could be ſo ingratefull for benefits received from the Crown and his Progenitors from Generation to Generation as to be ſo unmindfull of their often repeated Homages and Oaths of Allegeance as when they were Summoned only to perform and obey what the King and his Lords Spirituall and Temporall in his greateſt Councell ſhould adjudge meet to be done for the Publique Good, and to ſtand as Petitioners in the outward Courts, ſhould by Inſinuations from ſome priviledges and the Power granted unto them and others for that purpoſe and only end of contributing neceſſary aids for their Kings for the defence of themſelves and their Defenders, by gradations and the over indulgence of their Kings and Princes and the advantages of catcht opportunities creep into the *Arcana Imperii* and ſnatching the thunderbolts and authority of the Sovereign out of his hands make themſelves too buſy with the ſupream power themſelves that ſhould be governed, to be the unruly and unreaſonable Governors of their King and Gods Vice-Gerent.

Who might have thought himſelf and his Succeſſors to have been in ſome condition of Safety when the Summons to Parliament were to be only by his Writs and Authority and the Sheriffs who were not the Parliaments Officers but the Kings, and by the Law Sworn unto him not unto both or either of the Houſes in Parliament and ſtrictly bound to obſerve and Execute his Writs and Mandates, made himſelf content to allow ſome things of that way or courſe which had

had been before unduly and Illegally contrived, and therefore did as it appeareth alter and change it into a more legall and juſt way with different methods enough as he thought to make them and after Ages underſtand, that it was his only right to do it; and that they were to be no more then conſenters obedient, and ready to do and perform what the Lords Spiritual and Temporal ſhould in Parliament adviſe, wherein he was to be the ſole Director, Ratifier, and Ordainer, and to be at his Diſpoſing in the Summoning and Calling them together, as to Time, Place, Continuance, Proroguing, Adjourning, or Diſſolving any ſuch or the like Aſſemblies, and that he in all things to be done therein was as their Sovereign to have his Granting, Directive, and Negative Voice, and in the ſending out of his Writs of Summons for any Great Councells or Parliaments to vary in the circumſtances orders or limitations or additions, as his occaſions for the Weal publick ſhould require, with ſuch other variations as might ſignify his care to prevent future Evils or impending Dangers, and reſerve to him and his ſucceſſors the long ago juſt rights of the beſt tempered Monarchy in the Univerſe.

And for the better method and order to be uſed in his Houſe of Lords and Peers, whom he had Summoned and made uſe of in his great Councels and Parliaments, untill that time, without the Commons or any Procurators on their behalf in the making of divers Laws and Statutes of very great Concernment to them and the Weale Publick.

And to make the Councells and Aſſiſtance of the Wiſer and better part of his People more Effectuall, and in a better order then that which the rebellious part of his and his Fathers ill-affected Baronage had neither well provided for themſelves or them, did whilſt he was content to admit into the fitting and neceſſary Secrets and intimacy of his great Councells a ſelect part of them to be duly choſen by his Writts and commands as to Time, Occaſion, and Place, reſolve to give after ages to underſtand that he did notwithſtanding reſerve to himſelf as his Royal Progenitors had Anciently done, when they only Summoned the Prelates and Peers to their Great Councells his and their moſt undoubted rights and power of Summoning, Proroguing, Adjourning, or Diſſolving thoſe Aſſemblies, and the ſole and only affirmative or negative voice in the making of Laws, as being the only breath, Life, and being thereof.

Did at his being in *Goſcoigne* in the Twenty Second year of his Reign ſend his Writs of Summons to Summon divers great *Ro. vaſcon. 22. E. 1.*

great Lords as well *French* as *Engliſh* being in number Sixty one, amongſt whom were *Roger de Moubray, William Truſſel, Symon Baſſet, Theobald de Verdon,* &c *habere colloquium & tractatum* with him (in *England*) *ubicunque fuerit*, in a much Differing form then thoſe of *Henry* the 3 his as aforeſaid Impriſoned Father.

And Directed his Writ to the Sheriff of *Northumberland* in theſe Words, *viz. Rex &c. Vice Comiti Northumbriæ Salutem tibi præcipimus quod de Comitatu prædicto duos milites & de qualibet Civitatem ejuſdem Comitatus duos Cives & de quolibet Burgo duo Burgenſes de diſcretioribus & ad laborandum potentioribus ſine dilatione eligi & eos ad nos ubicunque in Regno noſtro fuerimus venire facias, ita quod dicti milites plenam & ſufficientem poteſtatem pro ſe & communitate Comitat prædicti & duos Cives & Burgenſes pro ſe & communitate civitatum & Burgorum prædict. diviſum ab ipſis tunc ibidem habeant ad conſulendum & conſentiendum pro ſe & communitate illa his quæ Comites, Barones, & proceres de Regno noſtro ordinabunt, &c. T. Rege octavo die Octobris*, altogether Different from the Writs made out and enforced from his Father King *Henry* the 3. During his Impriſonment in *Anno* 49 of his Reign. *Conſimilia brevia diriguntur ſingulis aliis Vicecomitibus Angliæ*, And in the ſame Year and the next Day after, ſent another Writ to the ſame Sheriff in theſe words.

Fo. Claus. 22. E. 1. m. 6. in dorſ.

Cum nuper tibi præceperimus quod duos milites de diſcretioribus ad & laborandum tunc potentioribus ejuſdem Comitatus de conſenſu ejuſdem eligi & eos ad nos uſque Weſtmonaſterium in craſtino Sancti Martini proximo futuro cum plena poteſtate pro ſe & tota Communitate ejuſdem Comitatus venire faceres ad conſulendum & conſentiendum pro Communitate illa his quæ Comites, Barones, & Proceres de Regno Noſtro in dicto craſtino ordinabunt (the King being then in *Gaſcoigny* and not intending to be there preſent) *tibi præcipimus firmiter injungentes quod præter illos duos milites eligi facias alios duos milites legales, & ad laborandum potentes, & eos una cum dictis duobus militibus uſque Weſtmonaſterium venire facias ita quod dicto craſtino ſint ibidem ad audiendum & faciendum quod eis tunc ibidem plenius injungemus & hoc nullo modo omittatis, & habeas ibi hoc breve teſte meipſo apud Weſtm. nono die Octobris*, and cauſed more Knights of the Shires at that Time to be Elected, then he had done before or after, *Eodem modo mandatum eſt ſingulis Vicecomitibus Angliæ.*

Claus. 23. E. 1. m 9. in

And to that end did afterwards without any Deviation from what might juſtly appertain unto himſelf in the well ordering

ordering and government of his councells and Subjects in the moſt legall manner, ſend his writ of Summons to *Gilbert de Thornton* (chief Juſtice of his Court of Kings bench) in theſe words. *viz.*

Quia ſuper quibuſdam arduis negotiis nos et Regnum noſtrum & vos cæteroſque de concilio noſtro tangentibus quæ ſine veſtra præſentia nolumus expedire vobis mandamus in fide & dilectione quibus nobis tenemini firmiter injungentes quatenus ſitis ad nos apud Weſtm. primo die menſis Auguſti proximo futuro vel ſaltem infra tertium diem ſubſequentem ad ultimum tractatur; & veſtrum concilium impenſnr. & hoc nullo modo omittatis teſte meipſo apud Album Monaſterium 23. die Junii Anno regni noſtri 23.

Eodem modo mandatum eſt Juſticiariis de utroque banco & de Itinere & Juſtic. aſſignatis Decanis juratis de Concilio, Baronum de Scaccario & aliis Clericis de concilio quorum nomina annotantur.

And the inferior Secular Clergy not being at all called with other of the Commons by that unauthorized Writ of *Simon de Montfort* in the 49th Year of the Reign of his then impriſoned Father King *Henry* the 3d, did hold it to be as agreeable to Reaſon and his good Intentions for the One as the Other, to make out his Writ of *Summons* in Theſe Words, *Viz.*

Claus. 23. E. 1. m. 2. in dorſo.

Venerabili in Chriſto Patri eadem gratia Cantuarenſi Archiepiſcopo totius Angliæ Primati ſalutem, licet nuper mandaverimus quod die Dominico proxime poſt feſtum St. Martini quod jam inſtat apud Weſtm. perſonaliter intereſſetis & quod prænoneretis Priorem & Capitulum Eccleſiæ veſtræ Archidiaconum & totum Clerum veſtræ dioceſis faceretiſque quod iidem Prior & Archidiaconus in propriis ſuis perſonis & dictum Capitulum per unum, idemque Clerus per duos procuratores idoneos plenam & ſufficientem poteſtatem ab ipſis Capitulo & Clero habentes una cum vobiſcum intereſſent modis omnibus, tunc ibidem ad tractandum, ordinandum, & faciendum nobiſcum & cum cæteris prælatis & Proceribus & aliis incolis regni noſtri qualiter periculis, quæ eidem regno noſtro, hiis diebus imminere videntur, poterit obviari quia tamen pro navigio noſtro congregando & parando quod ad dicti regni defenſionem, & hoſtium noſtrorum impugnationem, annuente Domino, ſperamus maxime profecturum: quodque per omnibus utile, credimus feſtinari in partibus de Wynchelſe, moram tam diu facere nos oportebit, quod dictis die & loco Commode non poterimus intereſſe; vobis mandamus in fide & dilectione, quibus nobis te-

 nemini,

nemini, firmiter injungentes, quod die Dominica, proxima ante feſtum beati Andreæ Apoſtoli proxime futurum; ad quem diem dictum negotium ex cauſa predicta duximus prorogandum, apund Weſtm. perſonaliter interſitis, præmunientes prædictos Priorem, & Capitulum, Archidiaconum, & Clerum facienteſque quod tunc ibidem interſint, ad tractandum, ordinandum, & faciendum ſuper præmiſſis, prout in priori mandato noſtro, vobis inde directo, plenius continetur. Prorogationem autem hujuſmodi de dioces. Veſtra, quorum intereſt celeriter nuncietis. Teſte Rege apud Odymere 11 die Novembris. Conſimiles literæ de verbo ad verbum diriguntur Epiſcopo Eli. Epiſcopo Norwic. Epiſcopo Winton. &c.

But in that ballancing way of his great nobility by the *vulgus* or common people, faſtened ſo ill an example in proceſs of time upon his Crown and ſucceſſors as ſome of them have ſadly ſince experimented it, as in the event it hath too much reſemblance with what that excellent Queen *Elizabeth* did by ſupporting that ingratefull Republick of the *united provinces*, when ſhe was forced to do it to preſerve her ſelf and the Proteſtant Religion as well at home as abroad againſt the *Spaniſh* tyranny and encroachments.

When he was not able at that time to foreſee that the number of freeholders would be as they were afterwards almoſt 300 in 5 encreaſed, and that ſuch great quantities of Abby, Priory, Nunnery, and Chantry lands and other profits and poſſeſſions given and dedicated to Religious uſes, which in the Reign of King *Henry* the 8th may be juſtly eſtimated to be a 3d part of the lands and revenues of the Kiugdom ſhonld (much of it) fall to the ſhare of the common people, and make them more ſurly and haughty then they were, and ought to be, or that in the granting of thoſe lands from the Crown (from which much of it originally came) a great part of the tenures *in Capite*, and by Knights ſervice ſhould in thoſe times be turned into free and Common Soccage; or by the manumiſing or making free Multitudes of Copyholders) which in former ages may be accompted to have been another third part (if not more) of the lands of the Kingdom.

Or that the Offices of Sheriffs, which in his and the former Reigns of our Kings were commonly lodged and intruſted in the hands of the Nobility and great men of the Kingdom, would ſo much be altered as to be moſt commonly placed in the lower rancks of the People, whereby the ignorant vulgar, Seditious, or Factious, and moſt numerous part of them ſhould be ſuffered to take upon them to make their own

own indiſcreet or purchaſed Elections, when the Writs only commanded and intended that the Sheriffs who were ſolely entruſted thereunto, ſhould without any Bribery, Partiality, or Corruption, make and Govern the Election, and to be the Judges of the Fitneſs or Unfitneſs of the perſons to be Elected to give their Aſſent in Parliament unto what ſhould be their Ordained by their King, by the Councel and Advice of the Lords Spiritual and Temporal. Or that any of his Succeſſors would for an Exciſe upon *Ale*, *Beer*, *Coffee*, and *Syder* for want of a regall revenue, which in many ages paſt had been by Princely indulgencies and neceſſities of encouraging and rewarding merit and Service for the good of the publick greatly and too much waſted and exhauſted, ever have been perſwaded to have releaſed ſo much as was done of the Tenures in *Capite* by a factious part of the people, (who deſignedto undermine theMonarchicalEſtate of theGovernment.

Or by ſome of the more Loyall adviſers who either by ignorance or otherwiſe did not well underſtand Monarchy and the Government ; Or the ſad and ever to be lamented Conſequences and Effects that have already followed, and will hereafter fatally enſue the change of the Tenure *in Capite* and by Knight Service, to releaſe and turn thoſe Nerves and Sinews of the Government, ligaments and ties of the Crown, the Chariots and Horſmen of our *Iſraels* Glory, Strength, and ſupport of it, and the Loadſtone of the Subjects obedience, into free and common Soccage.

Wherein much more heed was to have been taken then formerly, for that the *Militia* and the Sovereignty and Power of our Kings, much whereof were lodged and incorporated therein, were founded and built upon the Tenures *in Capite*, and by Knights Service, the *Baſis*, Foundation, Life, Blood, Animall Spirits, Soul, Eſſence, and ſupport thereof, and had not long before been by an Horrid and Hypocritical Rebellion wreſted out of the hands of the late bleſſed Martyr King *Charles* the 1ſt. by abuſe and miſconſtruction of the Laws, falſe arguments, and the fear and flagging of ſome of his moſt Eminent Juſtices and Lawyers who were too little acquainted with the *Feudall* Laws, and Laws of Nations, the Records, Annalls, and Hiſtories of the Kingdom and the Monarchicall Government thereof. Which too much encouraged and aſſiſted the Rebellion againſt him, together with the murder and deſtruction of him and many Thouſands of his Loyall and more Dutifull Subjects that fought for him.

Notwithſtanding

Notwithſtanding all which the aforeſaid cares & condeſcenſions of that prudent Prince King *Edward* the 1. hoping for the beſt and not ſuſpecting the worſt, In the 25th Year of his Reign requiring *Bohun* Earl of *Hereford* and Conſtable of *England* and other the Barons to go with him to the Wars in *Gaſcoigny*, and *Bygod* Earl Marſhall of *England*, likewiſe refuſing, unleſs the King himſelf would go in Perſon, the King ſwears ye ſhall go or Hang, and the Earl anſwered he would neither go nor Hang, and ſo without leave departed, the King notwithſtanding proceeded in his Voyage to *Flanders*, the two Earls of *Hereford* and *Norfolk*, aſſemble many Noblemen and other their friends to the number of 30 Bannerets, ſo as they were 1500 men at Arms and ſtood upon their Guard, and the King being ready to take Ship, the Archbiſhops, Biſhops, Earls, Barons, and Commons ſent him a Roll of the Grievances of his Subjects, in Taxes, Subſidies, and other impoſitions, with his ſeeking to force their ſervices by unlawfull courſes; to which the King anſwered, that he could not alter any thing without the advice of his Councell, who were not now about him, and therefore required them, that ſeeing they would not attend him in his journy, (which they abſolutely refuſed to do though he went in perſon, unleſs it were into *France* and *Scotland*) that they would yet do nothing in his abſence prejudiciall to the Crown, promiſing at his return to ſet all things in good order; but being afterwards enforced to ſend for more Supplies of Mony, ordained a Parliament to be held at *York*, and to the End he might not be diſappointed of aid, condeſended to all ſuch Articles, as were demanded concerning the great Charter, promiſing from thenceforth never to charge his Subjects otherwiſe then by their conſent in Parliament.

Sam. Daniel *in the Life of King* E. 1.

Seized the moneys in the Popes Bankers hands to relieve his and the publick neceſſities, gave protections from arreſt and troubles in their Eſtates to them that ſhould have paid it otherwiſe, and notwithſtanding the Popes Anger and Threats not in thoſe days eaſily to be adventured upon, did not pay and refund it within 2 or 3 Years after; Seized alſo and took at his own price the Wools which the Merchants then had in the Ports ready to be tranſported, and all the Lands and Great Eſtates of *Bohun* Earl of *Hereford* and *Clare* Earl of *Glouceſter*, and upon the Marriage of his Daughter the Lady *Elizabeth* to the firſt with a Gift in Tayl to them. the reverſion in the Crown, and the like to *Gilbert de Clare* Earl of *Glouceſter*, and *Hertford* by Marriage of his Daughter the

Ro Clauſe tempore E 1. & Sam. Daniel *in vita ejuſdem Regis.*

the Lady *Joan* reſtored them in tail as aforeſaid unto them, and made not only the ſaid *Humfrey de Bohun, Roger Bygod* Earl Marſhall (whom upon ſecond failings he afterward confiſcated) and all others who had joined with him in refuſing to ſerve him in his warrs according to the tenure of their lands to be glad and well content with his generall pardon.

In the ſame year granted to *Hugh Kent de Galvy* in *Ireland* and the Heirs Males of his body the liberty of enjoying the benefit of the *Engliſh* laws *in terra ſua Hyberniæ* as the writ enſuing wlll evidence. *viz.*

Rex omnibus ballivis & fidelibus ſuis in Hybernia ad quos &c. Salutem volentes Hugoni Kent de Galvy Hyberniæ gratia facere ſpecialem concedimus ei pro nobis & hæredibus noſtris quod ipſe & liberi ſui de corpore ipſius Hugonis legitime procreati & procreandi hanc habeant libertatem quod ipſi & poſteri eorum de cætero in terra noſtra Hyberniæ tam in morte quam in vita legibus conſuetudinibus utantur Anglicanis firmiter inhibentes ne quis eos contra hanc conceſſionem noſtram injuſte vexet in aliquo vel perturbet in cujus &c. Teſte Rege apud Gillingham 25 die Martii per ipſum Regem. Ro pat. 25 E. 1. parte prima m. 9.

And by his letters patents conſtituted *Johannem de Breton Cuſtos* or Warden of the City of *London* as followeth, *viz.*

Rex omnibus ballivis & fidelibus ſuis ad quod &c. ſciatis quod dilectum & fidelem noſtrum Johannem le Breton conſtituimus cuſtodem civitatis London ad amerciandos Aldermannos & alios quoſcunque de civitate prædicta qui ad rationabilem præmonitionem, Seu Summonitionem cuſtodis ejuſdem pro negotiis nos & Civitatem illam tangentibus venire contempſerent, & etiam ad Vicecomites Civitatis prædict. & ipſorum Clericos ac miniſtros mercedem ſui Officii capientes cum ſuper hoc modo debito convicti fuerint juxta quantitatem delictorum ſuorum caſtigandos & puniendos quantum neceſſe fuerit & quatenus ſua diſcretio de jure viderit faciendum ſpecialem tenore præſentium committimus poteſtatem quam diu nos placuerit durando in cujus, &c. Ro pat. 25. E. 1 parte 2. m. 3. 13. vel 14. E. 1. & m. E. 2.

Having before in the 13 or 14th Year of his Reign fined *Gregory de Rokeſly* Mayor of *London*, for that he renounced the Mayoralty and delivered the Common Seal of the Mayoralty (or City) to *Stephen de Aſhren & aliis de Communitate London ſine licencia ipſius Regis*, for which he was glad to receive his Pardon.

In the 25th Year of his Reign directed his Writ *Cuſtodi Northwallia mentientes & falſos rumores contra Regem caſtigand.* Ro. Claus 25. E. 1.

The like to puniſh *conventus & conventicula.*

Another to reſpite the King's Debts *& aliorum dum in obſequio Regis.*

With a Proclamatiou for the confirmation of *Magna Charta, & Charta de Foreſta,* and to Command that two diſcreet Knights be choſen in every County to Attend Prince *Edward* the King's Son his Lieutenant in *England* during the Kings abſence in *partibus tranſmarinis* to procure the King's Letters-Patents for confirmation of the Peoples Liberties.

In the 27th Year of his Reign a Parliament being called at *Weſtminſter,* wherein the two Charters were confirmed, with the allowance of what Deafforeſtation had been formerly made but with ommiſſion of the clauſe *Salvo jure Coronæ noſtræ,* which the King laboured to have inſerted, being a ſmall return and Civility to a Sovereign, whoſe Royall progenitors had freely granted thoſe Liberties and Priviledges, and himſelf willing to confirm them, but by no means it would be agreed unto.

Was ſo incenſed at the revolt of the *Scots,* and ſo fixt in his reſolution of ſubduing them, as going to fight a battle with them, whoſe army much exceeded his own, when he was with one foot in the Stirrop getting on horſeback, the horſe upon ſome great noiſe or ſhout in the *Scottiſh* army, who were Marching on to engage him, Started and throwing him to the ground with his hinder foot Strake him ſo on one ſide as he brake two of his Ribbs, which could not ſo hinder either his Courage or Reſolution but he again remounted the ſame Horſe, and charged with good Succeſs as he wan the field, and ſlew as ſome of their Hiſtorians mention about 60 thouſand of them.

Speeds *Hiſtory of England in the Life of King* Edward *the* 1.

In the 30th, Year of his Reign the Conſtable of *Dover* having upon an Order or Sentence of the Court of *Sheppey,* which was the *Magna Curia* of the *Cinque*-Ports arreſted the Abbot of *Feverſham, pro quibusdam tranſgreſſionibus per ipſum perpetratis in læſionem Coronæ & regiæ dignitatis,* was cited and excommunicated by the Archbiſhop of *Canterbury,* the King thereupon (as the record mentioneth) *nolentes nobis ſuper Statu regio noſtro aliqualiter derogari aut miniſtros noſtros pro his quæ judicialiter fuerint indebite fatigari* commanded the Archbiſhop *in fide qua ſibi tenetur firmiter injungentes quod hujuſmodi citationibus* of the Conſtable or his Miniſters *ea de cauſa faciendis ſupersedeat ſententias prædictas in ipſos per ipſum ut præmittitur fulminatas faciat ſine dilatione aliqua revocari.*

Ro. Claus. 30. E. 1. m. 13.

vocari ita quod non operteat nos ad hoc aliter apponere manum noſtram.

In the claim which he made and deduced to the Pope of his right to the Superiority of the Kingdom of *Scotland* atteſted by an hundred hands and ſeals of the Earls and Baronage of *England* in a Parliament holden at *Lincoln*, when he gave an anſwer to a letter of the Pope mediating in the behalf of the King of *Scotland*, and claiming that Kingdom to belong to the Church of *Rome*, wherein he had deſired him to ſend his procurators and evidence to be heard and determined at *Rome*, the hiſtorian and our records have informed us in theſe words that *quoniam vero ad hoc quod Papa petivit quod ſi Rex Angliæ jus haberet in regno Scotiæ, vel aliqua ejus parte procurators & inſtructos mitteret, & fieret eis juſtitiæ complementum, Rex per ſe noluit reſpondere, ſed hoc commiſit Comitibus aliiſq; terræ Baronibus*, who gave him a choaking and flatly denying anſwer on the behalf of their King. Walſingham Ipodigma Neuſtriæ. 491. 492 493 494. 495.

And purſuing his Victories againſt that Nation took out of *Edenburgh* the Crown, Scepter, and Cloth of Eſtate, with the Marble Chair, wherein the King's of *Scotland* uſed to Sit, whilſt they were Crowned, wherein according to an old *Scotch* Prophecy the fate of that Kingdom ſo reſided, as whereſoever it ſhould be, the Rule and Government of that Nation ſhould follow, and offered up the ſame at *St Edwards* ſhrine at *Weſtminſter* intending to unite the Kingdom of *Scotland* to *England*, impriſoned the King of *Scotland* in the Tower of *London*, where he long detained him, ſubdued *Malcolmus* King of *Man* and the Kings of the Other Iſles, and was ſo unalterable in thoſe his purpoſes as he ordered that his bones ſhould after his death be carried along with ſuch *Engliſh* Armies as ſhould afterwards be employed againſt that Nation. Speeds *Chronicle*. 654. Walſingham Ipodigma Neuſ. & Hiſt. E. 1.

Did in the 31ſt year of his Reign treat with the foreign Merchants, and by his *Charta mercatoria* without the trouble, advice, or aſſent of his great Councel or Parliament, relinquiſh unto them his former kind of cuſtoms called *Priſes* upon their granting unto him 3*d* of the pound now called the Petit Cuſtoms out of all foreign Merchandiſes imported (except wines) for every ſack of wool to be exported 40*d*, for every 300 woolfells the like, and for every laſt of leather a demy mark over and above the duties payable by Denizens for the ſame commodities; which grant being by the Merchants of ſeveral nations not incorporate into a body-politick of no force by the rules of the common Law, the Kings Charter only made

it good and maintained it untill it was confirmed by Act of Parliament in *Anno.* 17. *E.* 3. which was 50 Years after, which Charter being made in *England* by that great and valiant Prince was afterwards by him exemplyfied and tranſmitted into *Ireland* with a ſpeciall Writ to the Officers of the Cuſtomes there to leavy the 3d penny in the Pound and other duties mentioned in that Charter, as appeareth in the Records of the Exchequer of *Ireland*, by virtue of which writ without any Act of Parliament there the 3d penny in the pound with the other duties were ever after leavied in that Kingdom, and paid to the Crown.

M.S. Sr John Davies *argument upon the queſtion of Impoſitions.*

In the 32d year of his Reign he was ſo little afraid of his potent Nobility, under whoſe greatneſs and power many of common people ſhelrered their Oppreſſions of one another by wrongfull diſſeiſins, and making themſelves Tenants to their greater Landlords for thoſe Lands, which they had no right unto, as he made ſevere Laws for the regulation thereof.

Walſingham *in vita E.* 1. *p.* 50.

And *in Declaratione Juris Regis in regno Scotiæ proteſtavit ſe jus Coronæ ſuæ uſque ad effuſionem ſanguinis defenſarum ab quem Rex illo Anno omnia Monaſteria Angliæ, Scotiæ, & Walliæ perſcrutari faceret, ad dignoſcendum quale jus poſſet ſibi competere in hac parte & repertum eſt in Chronicis mariani, Scoti, Willielmi de Malmesburia, Rogero Hoveden, Henrici de Huntingdon, Radulphi de Luzeto,* (or *diceto*) *quod Anno Domini non genteſimo decimo Rex Edwardus ſubegit ſibi Regis Scotorum & Cambrorum, Item ibidem que Anno domini nongenteſimo viceſimo primo prædictæ gantes Eligerunt ſibi Edwardum prædictum in Domium & patroum, Item ibidem Anno Domini nongenteſimo viciſimo Sexto Rex Angliæ Adolſtanus denirit Regem Scotiæ, Cententium, & iterim ſub ſe permiſit Regno, Item Edradus frater Adolſtani Rex Angliæ dericit Sates & norhambro, qui ſe ſubmiſerunt, ei & fidelitatem Juraverunt, Item ibidem Edgarus Rex Angliæ ſuperavit Renadum, filium Alpini, Regem Scotorum, Et ex tunc factus eſt Rex quatuor regnium, ſcilicet Angliæ, Scotiæ, Daciæ, & Norwegiæ, Item ſovetus Edwardus regum Scotiæ dedit Malcolmo filio Regis Cumbrorum de ſe tenendum, Item Willielmus Baſtard Anno regni ſui Sexto vicit Malcolmum. Regem Scotiæ, & accepit ab eo Sacramentum fidelitatis.*

Cauſed ſpecial Commiſſioners from *Scotland* to attend him, and the Lords of *England* in Parliament about ſetling the peace and Military affairs in *Scotland*, where it was aſſented to, by the King that a Parliament ſhould be called in *Scotland* by the Kings Writ out of his Chancery there,

in

in which Parliament the commonalty of that Kingdom ſhould elect Ten Perſons for themſelves to come to the King and his Parliament at *London pro tota communitate terræ Scotiæ*, the *Scots* Commiſſioners Petitioning the King that thoſe ten Perſons migh have their Coſts and expences to be leavied by two or three lawful men ſpecially to be elected by the Commons, by the veiw and advice of the Guardian and Chamberlain of *Scotland* which the King granted with an order that *duo legales homines citra mare Scotiæ & duo legales homines ultra mare Scotiæ eligentur ad hujuſmodi expenſas aſſidendas & levandas per viſum & concilium cuſtodis regni Scotiæ & Camerarii*; wherein as Mr *Pryn* well obſerveth they were not to be as ſitting Voting Members, but as *Proxies* and Commiſſioners to Treat with the King and *Engliſh* Parliament concerning *Scottiſh* affairs only.

Pryn's 4 *pt of a Regiſter of Parliament Writs* 22. & 23. & Ryleys *placit Parl.* 43. & 44.

Ro. Claus. 33. E. 1. *m.* 13. & *Cedul ordinat per Dominum regem de ſtabilitate terræ Scotiæ.*

And ſo great Regard was had to the words and Teſtimony of this great Prince, as it was in his time not denyed to be law, that *Ordinatio* (Meaning an award or ſomething acknowledged in the King's preſence, *& per ipſum Regem affirmat*) *Majorem vim habere debet quam finis in Curia ſua coram Juſticiariis ſuis levatus.*

Mich. 33. & 34. E. 1. ro. 103. *in banco Regis.*

Agreeable to which was the Opinion of the Judges alſo in his time in theſe words, *videtur concilio Regis quod Dominus Rex a quo omnes miniſtri ſibi Subiecti habeant recordum eſt Superlativum & Magis arduum recordum & ſuper omnes miniſtros ſuos & proceſſus & recordum præcellens*, & not at all diſagreeing with the great reverence and Regard which the good Subjects of this Kingdom have never failed to give unto the hands and great Seals of their King's and Princes which by many *inſpeximus's* have made a record that was ſo Obliterate and Unintelligible as it was no Record before, and given a New life and Reſurrection to many a Cuſtome, Right, and Liberty, which otherwiſe would have been loſt and buried in the Rubbidge of time.

In placitis & adjudicat tempore. E. 1. *in banco regis coram rege Wallia.*

Commanded the Sheriffs of *Lincoln* to leavy the expences of the Knights of that Shire *in eundo, morando, & redeundo de mandato ſuo venientibus prout aliis in caſu conſimili conſuevit.*

Ro. Claus. 34. E. 1. *m.* 11. *in dorſo.*

Puniſhed by his Juſtices of his Bench *William de Brewſe* a great and powerfull Baron for giving Reproachfull words to *Roger de Hengham* a Baron of the Exchecquer, after he had there given a judgement againſt him, and followed him as he was going from the Court, and reviled him with groſs and bitter words; who in thoſe times were frequently in their records ſaid and underſtood to be *de concilio Regis*, and ordered

Mich. 33. & 34. E. 1. *coram rege ro.* 71.

that the said *William de Brewse* should go without his sword (a very great dishonour to a Baron) bareheaded *a banco ipsius Domini Regis ubi placitr tenentur in aula Westmonaster. per medium aulæ prædictæ cum curia plena fuerit usq ; ad Scaccarium & ibidem veniam petat a præfato Rogero ut gratiam sibi faciat de dedecore & transgressione sibi fact. & postea pro contemptu facto Domino Regi & curiæ suæ Committatur turri* (London) *ibidem moraturus ad voluntatem Domini Regis.*

Was so carefull of his Superiority and Jurisdictions as he would not suffer either it or his Justice to be sullied in the administration or execution thereof, as in the case betwixt the Pryor and Bishop of *Durham* in the 34th Year of his Reign he caused an Information to be brought in his Court of King's Bench against the Bishop for that he had Imprisoned his Officers or Messengers for bringing Writs into his Liberty and that the Bishop had said that *nullam deliberationem de eisdem faceret sed dixit quod cæteros per ipsos castigaret ne de cætero litteras Domini Regis infra Episcopatum suum portarent in læsionem Episcopatus ejusdem*; in the entring up of which Information, Plea and Judgement thereupon, the record saith *quia idem Episcopus cum libertatem prædictam a Corona exeuntem & dependentem per factum Regis in hoc minister Domini Regis est ad ea quæ ad Regale pertinet infra eandem libertatem loco ipsius Regis modo debito conservanda & exequenda ita quod omnibus & singulis ibidem justitiam exhibere & ipsi Regi ut Domino suo & mandatis parere debeat prout tenetur licet proficua & expletia inde provenientia ad usum proprium per factum prædictum percipiatur.*

Mich. 34. E. 1. *incipiend ro. 113. Cram rege & concilio in banco regis.*

Wherein the Judges and Sages of the Law (as in those ancient times they did frequently in matters of great Concernments) have given us the reason of their Judgement in these words, *Cum potestas Regia per totum regnum tam infra libertates prædictas quam extra se extendant videtur Curiæ & toti concilio Domini Regis quod hujusmodi imprisonamenta facta de his qui capti fuerunt occasione quod brevia Domini Regis infra libertatem prædictam tulerint simul cum advocatione & acceptatione facti & etiam dictis quæ idem Episcopus dixit de castigatione illorum qui brevia Regis ex tunc infra libertatem suam portarent manifeste perpetrata fuerunt.*

Et propterea ad inobedientiam & exhæreditationem Coronæ, & ad dimunitionem dominii & potestatis Regalis ideo consideratum est quod idem Episcopus libertatem prædictam cujus occasione temerariam sibi assumpsit audaciam prædictæ gravamina, injurias, & excessus prædictos perpetrandi & dicendi toto tempore

suo

ſuo amittat, cum in eo quo quis deliquit ſit de jure puniendus & eadem libertas capiatur in manus Domini Regis, & nihilominus corpus prædicti Epiſcopi Capiatur.

And that often diſtreſſed prudent Prince was ſo Unwilling to forſake the old Paths of Truth and the good ways and Rules of the Engliſh, in their great Councels for Extraordinary affairs, wherin a long and very Ancient Gray headed ſeries of his Royall Anceſtors had untill the aforeſaid Impriſonment of his Father, conſtantly and ſucceſſively walked, did Reſolve as long as he could to continue therein; Inſomuch as

3. *E.* 1. *Indictum eſt Parliamentum Londoniis ubi Leolinus princeps Walliæ* being ſummoned to come to do his *Homage*, pretended that he durſt not come without hoſtages, which the King taking ill, refuſed to give, *ſed tamen diſſimulato negotio inceptum Parliamentum conſummavit, poſt Parliamentum vero Rex* raiſed an Army to ſubdue him, *& hoc Anno ſolvit populus Regi quinto decimam bonorum quæ patri ſuo dicebatur præconceſſa.* Ib. 46.

Anno. 5. *E.* 1. *in ſubſidium guerræ Wallenſis conceſſa eſt Regia populo viceſima pars bonorum. Anno* 6 *tenuit Parliamentum Gloverniæ in quo edita ſunt Statuta quæ Gloverinæ appellantur*, and it appeareth by the Act of 7. E. 1. that the Prelates, Earls, and Barons were preſent at the making thereof. Ib. 48. 56. & 57.

2. *E.* 1. *Habitum eſt Parliamentum Salopiæ in quo per deputatos ad hoc Juſticiariis, David* the Brother of the Prince of *Wales, ſine condemnatus tractus & ſuſpenſus, Eodem Anno tenuit Rex Parliamentum apud Acton Burnell ubi editum eſt ſtatutum quod a loco cognominatum eſt.*

18. *E.* 1. Upon the death of *Margaret* daughter of the King of *Norway* by the daughter of *Alexander* King of *Scotland ad quam jure hæreditario defuncto avo patruo & matre regnum Scotiæ devolvi debebat & quis fuit juſtus hæres Scotiæ apud omnes in dubium vertebatur*, and there being many competitors, amongſt which there were of the Engliſh *Baronage Johannes de Haſtings, Dominus Abergavenny, Johannes de Veſcy, vice patris ſui, Nicholaus de Sules, & Willielmus de Ros*, and the Pope claiming the ſuperiority and the determination of the Title. Ib. 51.

Eodem Anno poſt Paſcha Rex Angliæ Scotiam appropinquans Parliamentum tenuit apud Northumbr. ubi conſultis Prælatis ac utriuſque juris peritis (wiſer and fitter men then Common people uſe to be) *revolutiſque priorum temporum Annalibus* and the memorialls of the Abbies and Monaſteries *vocari fecit Prælatos & Majores Regni Scotiæ & coram eis in Eccleſia parochiali* Walſingham *Hiſt. Angliæ ſub* E. 1. p. 55. 56. 57.

chiali de Northumbr. jus ſuum in ſuperius dominium Regni Scotiæ fideliter declaravit petivitque ut hæc recognoſcerent profeſtando ſe jus Coronæ ſuæ uſque ad effuſionem ſanguinis ſuæ defenſurum.

And the Kings Right and Superiority being fully evidenced, all the pretenders to that Crown did under their Hands and Seals not only acknowledge his Superiority, but that they would hold that firm and ſtable, which he ſhould declare therein, and yeild the Kingdom to ſuch as he ſhould adjudge, which no where appears to have been done by the conſent of the Common people of *England*, and *Scotland*, and was of the greateſt concernment to thoſe of *Scotland*.

And in another Charter of the ſame date declaring *Cum autem non poſſit præfatus Rex Angliæ iſto modo cognitionem facere, nec complere ſine judicio nec indicium debeat eſſe ſine executione nec executionem poſſit debito modo facere ſine poſſeſſione & ſeiſina ejuſdem terræ & Caſtrorum*, did deliver ſeiſin to the King, as the Supream Lord, untill the Right ſhould be determined.

Ita tamen that before the ſeiſin taken he ſhould give good Security to deliver it back to ſuch as ſhould be adjudged to have Right to the Kingdom of *Scotland*, *cum tota Regalitate, dignitate, dominio, libertatibus, conſuetudinibus, Juſticiis, legibus, uſibus quibuſcunq; rum pertinentiis in eodem Statu &c.* So as an account and Reſtitution be made within 2 Months after, to thoſe that ſhould be adjudged to have Right unto that Kingdom, of the iſſues and profits thereof *ſalvo Regi Angliæ homagio illius qui Rex erit.*

Quo facto, although *Ericus* King of *Norway* did at the ſame time by his Attorneys or Procurators appear *coram concilio Regis Angliæ* with his Commiſſion *omnibus inſpecturis* to claim 100000*l*, Sterling a penalty for not admitting the ſaid *Margaret* his daughter to be heire to the Kingdom of *Scotland*, and 700 marks *per Annum* dowry which he gave with her &c. who being heard and ſeverall days given, and refuſing *ulterius proſequi, poſt diligentem hujus negotii diſquiſitionem inter cæteros* (*competitores*) *de aſſenſu communi* Rex *Angliæ* (without any licenſe or confirmation of his Parliament) *poſt varias diſceptationes vendicantium regnum illud* adjudged it to *John de Baylioll*, as deſcended from the Eldeſt Daughter of *David* King of *Scotland*, *excluſo* Roberto *de Brus*, who claimed from a younger, received his homage and fealty and cauſed him to be Crowned, ſitting *ſuper lapidem Regalem*, ſaid by theſe people to have been the Stone, upon which *Jacob*

Slept,

Slept, when he journeyed from *Barſheba* to *Aran*.

About the ſame time 200 Ships or Barks of *Normandy*, ſailing homewards with Wines from *Gaſcony*, & Domineering as if *ſibi ſolis maris ceſſiſſet libertas*, they were by 60 *Engliſh* Ships taken, and 15000 of their men ſlain, and the King of *France* by his Embaſſadours demanding Satisfaction, or to have the matter determined in his Court in *Gaſcony*, being of a very great concernment to the Engliſh Nation; the King *deliberato habito concilio* ſending the Biſhop of *London*, *adjunctis ſibi aliis viris prudentibus* to the King of *France*, *& ſuo concilio*, offered that if any found themſelves aggrieved, they ſhould upon a ſafe conduct come for Juſtice *ad Curiam ſuam quæ nulli ſubjecta fuit*; whereupon a great contention ariſing betwixt the two Kings, and the King of *France* ſeiſing divers Caſtles of the King of *England* in *Gaſcony*, and citing him perſonally to appear at his Court at *Paris* to anſwer for that tranſgreſſion, which being upon a ſafe conduct performed, and a peace thereupon concluded, and that ſhortly after cavilled at by the King of *France*. Walſingham. *ib.* 60. 61.

The King in the 22 year of his Reign *convocato Londoniis Parliamento cui Johannes Rex Scotorum interfuit* being in the ſame year and Parliament to which he had by his writs cauſed ſome of the Commons of *England* to come to aſſent unto what ſhould be there ordained *de concilio Prælatorum & Procerum conſentium* (without any mention of the Community) agree that *terram ſub-dole ablatam recuperandam fore gladio*.

And thereupon the King (not the Parliament) ſent his Embaſſadours again unto the King of *France*, and declared that ſince he had Violated the Leagues and Agreements made betwixt them and their Royall Progenitors, *Non videbatur ſibi* (his great Councel and Parliament not being at all named) *quod ipſum Regem Angliæ ducemq; Aquitaniæ hominem ſuum reputabat, nec ipſe homagio ſuo aſtringi ulterius intendebat*.

And *mandavit Juſtic. ſuis hic breve ſuum patens in hæc verba, Edwardus Dei Gratia Rex Angliæ, Dominus Hiberniæ, & Dux Aquit: Dilect. & fidelibus ſuis, Rogero de Hengham, Petro Malorre, & Roberto de Recford ſalutem, ſciatis quod aſſignavimus vos vel duos veſtrum quos preſentes eſſe contigerit Juſtic. noſtros ad inquirend. per Sacramentum tam militum quam aliorum proborum & legal. hominum de Civit, noſtra London. & Comitatibus Kanc. Surr. Suſſex & Midd. per quos rei veritas melius ſciri poterit de Malefactoribus & pacis noſtræ perturbatoribus, homicidia, depredationes, incendia & alia dampna quam plurima nocte dieq; perpetranti-* Midd. ſ. Anno. 35. E. 1.

bus & eorum ſcienter Receptatoribus & eis Conſentientibus vim & auxiliam præbentibus ſeu dictas tranſgreſſiones fieri procurantibus & præcipientibus & etiam ad inquirendum de illis qui pro muneribus ſuis pactum fecerunt & faciunt cum malefactoribus & pacis noſtræ perturbatoribus & eos conduxerunt & conducunt ad verberand. vulnerand. maletractand. & Interficiend. plures de Regno noſtro in feriis mercatis & aliis locis in dict. Civitate & Comitatibus pro Immicitia, invidia, malitia, ac etiam pro eo quod in Aſſiſis Juratis recogn; & Inquiſitionibus factis de feloniis poſiti fuerunt & veritatem dixerunt unde per Conductionem hujuſmodi malefactorum Juratores Aſſiſar. Jurator. recogn. & Inquis; illarum præ timore dictorum malefactor. & eorum minarum ſepius veritatem dicere ſeu dictos malefactores indictare minime auſi fuerunt & ſunt, & etiam ad. Inquirend. de illis qui hujuſmodi munera dederunt dant & quantum & quibus & qui hujuſmodi munera receperunt & recipiunt, & a quibus, & qualiter, & quo modo, & qui hujuſmodi malefactores in malicia ſua fovent, mitriunt, & manutenent, in Civitate & Comitatibus prædict. & etiam de illis qui ratione poteſtate & Dominii ſui aliquos in eorum protectionem & advocationem pro ſuo dando ſuſceperunt & adhuc ſuſcipiunt, & de illis qui pecuniam vel aliud quodcunq; ab aliquo per graves minas ei factas malicioſe extorſerunt & de Conſpiratoribus & hiis qui malas confederationem faciunt ſeu fecerunt & de malefactoribus in parcis & vivariis & ad felonias & tranſgreſſiones prædictas audiendas & terminandas ſecundum legem & Conſuetudinem Regni noſtri & Juxta ordinationem per nos & Conſilium noſtrum in Parliamento noſtro factam & etiam ad omnes Aſſiſas Juratas & certificationes coram quibuſcunque Juſtic. noſtris in prædict. Com. Kanc. Surr. Suſſex & Midd. arrainiatis & arrainiandas quamdiu vos vel duo veſtrum in Comitatibus illis pro negotiis prædictis morari contigerit capiendas & etiam ad gaolas noſtras in Civitate & Com. prædict. tam de priſonibus Captis pro ſuſpicione feloniæ vel mali, licet prius inde non fuerint indictati, quam de aliis priſonibus quotiens vos ad patres illas adeſſe contigerit deliberandas ſecundum legem & Cons. Regni noſtri, Et ad inquirend. ſi Statutum noſtrum edictum de aquis in quibus Salmones capiuntur poſitis indefenſo, & Statutum noſtrum Winton. & etiam mandatum noſtrum de Juſpectis areſtand & Capiend. in ſingulis ſuis Articulis teneantur, nec ne & ſi non teneantur, tunc qualiter infringuntur & per quos, Et ſi Ballivos alliquos infra libertatem vel extra, ſeu miniſtros noſtros inde Culpabiles inveneritis, eos poſtquam inde convicti fuerint dimittatis per bonam & ſufficientem manucaptionem eſſendi coram nobis ad certum

tum diem eis per vos præfigendum, & Recordum & premiſſum inde coram vobis habita tunc nobis ſub Sigillo unius veſtrum mittatis & omnes alios de quibus vobis conſtare poterit quod contra Statuta noſtra venerint, taliter per pœnas in Statutis illis ordinatas vel alio modo in Caſu quo pœnæ in eiſdem Statutis non eſt ordinat, caſtigetis; quod pœna unius ſit Caſtigatio aliorum, Et ideo vobis mandamus, quod ad certos dies & loca quos vos vel duo veſtrum ad hoc provideritis omnia præmiſſa expleatis in forma predicta, facturi inde quod ad Juſtic. pertinet ſecundum legem & Cons. Regni, ſalvis nobis amerciamentis & aliis ad nos inde ſpectantibus, mandamus enim Vicecomitibus noſtris London *& vic. noſtris Com. predictorum quod ad vos dies & loca quos vos vel duo veſtrum ei ſcire facietis, predicti vic. noſtri Civitatis predictæ omnes priſonæ gaolarum ejuſdem Civitatis, & eorum attach. et tot et tales tam milites quam alios probos & legales Homines de ipſa Civit. Et predicti vic. predictorum Com. Aſſiſæ, Jurates, Certificationes illas cum brevibus originalibus, & omnes priſones gaolarum dictorum Com. & eorum attach. & tot & tales tam milites quam alios probos & legales Homines de Com. predictis, per quos rei veritas in premiſſis melius ſciri poterit & inquiri, coram vobis ven. fac. In Cujus rei teſtimonium has literas noſtras fieri fecimus pat. T. mei ipſo apud Laureto* xxi *die Februarii Anno Regni noſtri* xxxv. which *Walſingham* an Authentique writer of thoſe Times calleth a *Troil Baſton* or the modern *French Ottroy le Baſton* or a Commiſſion to enquire of notorious Offences and Offenders and puniſh them. Walſingham's Hiſt. E. 1. F. 89.

And in the making of his Laws and Act of Parliament did not omit the right uſe of his Power and Authority when in the 3 Year of his Reign in an Act of Parliament that *the Peace of the Church and the State ſhould be maintained, he did Will and Command that Religious Houſes be not overcharged.* 3. E. 1. *ca.* 1.

In an Act of Parliament made in the ſame Year that *a Clerk convict of Felony delivered to the Ordinary* ſhould *not depart without Purgation*, it is ſaid to be *provided*, and in the perclose, *ſo that the King ſhall not need to provide any other Remedy.* *Ca.* 2.

And in ſome other Acts made in the year it is agreed; and In another Act of Parliament that elections ought to be free, the King *commandeth upon great forfeitures*, that no man, nor other by force of Arms, by Malice, or Menacing, do diſturb any to make free elections. *Ca.* 5.

That *amerciaments ſhall be Reaſonable, and according to the offence* (wherein Cities, Boroughs, and Meſne Lords were concerned) *Ca.* 6.

concerned as well as himſelf.)

Ca. 13. Concerning the Puniſhment of Raviſhers of Women, the King *Prohibiteth.*

Ca. 14. Concerning Appeals to be againſt the principall and acceſſory, *it is provided and commanded by the King.*

The like in Ca. 15. What perſons be mainpriſable and who not, and the penalty for unlawfull Bailment (thoſe that were taken by the Commandment of the King, or of his Juſtices, or of the Foreſt being not Bayleable.)

Ca. 29. *Concerning the penalties of a Sergeant or Pleader committing Deceipt*, the King *commandeth* that ſuch things be no more done from henceforth.

And if any Officer of Fee doth it, his Office ſhall be taken into the Kings hands.

Ca. 37. *It is provided and agreed that the King of his Office ſhall from henceforth grant attaints upon Enqueſt in Plea of Land or Freehold.*

Ca. 38. In the ſeveral limitations of preſcription in ſeverall Writs which might be to many very prejudicial, it was in like manner *provided* that in a Writ of right none ſhould preſume to declare of the ſeiſin of his Anceſtor further or beyond the time of King *Richard* the 1ſt, Writs of *Partition* and *Novell Deſſeiſin* of the firſt voyage of King *Henry* Father of the King into *Gaſcoigne*, Writs of *Mort d' Aunceſtor*, *of Coſinage*, *Ayel*, *et Nuper obiit* of the Coronation of the ſaid King *Henry*, and not before.

Ca. 45. That one plea ſhall be decided by the Juſtices of the King's Bench, before another be commenced, *it is provided alſo and commanded by the* King.

Ca. 48. In an Act touching the Tenants plea in a Writ of Dower, and at what time *Aſſizes* ſhall be taken, it was declared, that foraſmuch as *the King hath ordained* thoſe things unto the honor of God and Holy Church, and for the Common-Wealth and remedy of ſuch as be grieved, *he would not that at any other time it ſhould turn into prejudice of himſelf or of his Crown*, but *that ſuch right as appertains unto him ſhould be ſaved in all points*, and foraſmuch as it is great Charity to do right unto all men at all times when need ſhould be, it was provided by the aſſent of the Prælates that Aſſizes of *Novell Diſſeiſin*, *Mort d'aunceſtor*, and *Darrein* preſentment ſhould be taken in Advent *Septuageſima* and Lent, even as well as Enqueſts may be taken, and that at the Speciall requeſt of the King made unto the Biſhops.

In the 4th Year of his Reign cauſed an *Extenta Manerio-*

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rum or Survey (as to his particular Royal Revenue much like unto that of *William* the *Conquerors*) of his Caſtles, Houſes, Buildings, Demeſne-Lands, Copyhold, Commons, Parks, Foreſts, Woods, Aſſerts, Tenants, Cottages, Pleas, and Perquiſites of the Counties, Churches, and the values thereof, and of Heriots, Fairs, Markets, Eſcheats, Cuſtoms, Rents, Services, Fiſhings, Freeholders, Woods, Rents of Aſſize, Tenures in Soccage, or by Knights-Service, Forreign Works, and Cuſtomes, Perquiſites of Courts, Fines, and all other Caſualties.

Declared by a Statute *de Officio Coronatoris*, the Duties of a Coroner, and enquiries to be made by them.

In the matter of Bigamy publiſhed and declared certain conſtitutions before him and his Councel, and *commanded* them to be ſtedfaſtly Obſerved in the preſence of certain Reverend Fathers, Biſhops of *England*, and others of the Kings Councel, to which the Juſtices as all the Kings Councel did agree.

Cap. 1. In what Caſes aid ſhall be granted of the King, in what not, it is ſaid, that *it is agreed by the Juſtices and other Learned men of the Kings Councel of the* Realm, *which heretofore have had the rule and practiſe of Judgments, that where a Feoffment was made by the King with a Deed thereupon, if another perſon by a like Feoffment and Deed be bound to Warranty, the Juſtices could not heretofore have proceeded any further, neither yet do proceed without the Kings Command.*

And it ſeemeth alſo they could not proceed in other caſes, wherefore they ſhall not ſurceaſe by occaſion of any Grant, Confirmation, or Surrender, but after advertiſement made thereof to the King, they ſhall proceed without delay. *Ca.* 4. Concerning purpreſtures upon the Kings Lands to be reſeiſed.

If any do complain of ſuch Reſeiſins, he ſhall be heard as right requireth.

6. *E.* 1. In an Act concerning a man killing another in his own defence, or by misfortune, it is *ſaid, the King commanded.*

In *Ca.* 10. that the husband and wife being impleaded ſhall not fourch by Eſſoin, that act of Parliament is *ſaid to be the Statute of the* King.

In the ſame year an Expoſition and alteration of the Statute of *Glouceſter* in divers articles and points was made by the *King and his Juſtices, by the Kings Letters-Patents dated at Glouceſter.*

In the foregoing ſtatutes or Articles whereof *videlicet ca.* 1. it is *ſaid to have been provided* in *ca.* 3. *Eſtabliſhed* the like

in *Ca.* 4. in 5. and 6. *provided*, and the like in the 8. and the *offenders shall be greivously amerced to the King.*

In the Statute of *Glouceſter*, *ca.* 14. where it is ordained, that a Citizen of *London* ſhall recover in an Aſſize damages with the land, it is ſaid the King of his ſpeciall grace granteth, and the Barons of the Exchequer and Treaſuter ſhall be *commanded.* And in ſeverall ſtatutes and Articles there made, did afterwards *by the advice of his Juſtices make in ſome of them divers expoſitions, alterations and additions in ſeveral materiall parts or Points.*

Expoſition of the Statute of Glocester.

7. *E.* 1. *by his Writ directed to the Juſtices of his Bench, Signified that it was accorded, that at the next Parliament by the councell and aſſent of the Prelats, Earls, and Barons, proviſion ſhould be made that none ſhould come to Parliaments, Treaties or Aſſemblies with force and arms, and in the next Parliament after the ſaid Treaty*, the *Prelates, Earles, Barons, and the Commonalty of the* Realm (Compriſed in the Votes and ſuffrages of the Prelats Earls and Barons) *there aſſembled to take order of that buſineſs, have ſaid, that to the* King *it belongeth, and on his part it is through his Royall Seigneury Strictly to defend by force of armour and all other force, againſt his peace, at all times, when it ſhall pleaſe him, and to puniſh thoſe which ſhall do contrary according to the Laws and Uſages of the Realm, and hereunto they are bound to aid him, as their Sovereign Lord, at all ſeaſons, as need ſhould be, and commanded the ſame to be read before him in his Bench, and there enrolled.*

In the Statute of *Mortmaine* made in the ſame Year, that no Lands ſhould be aliened in *Mortmaine* upon *pain of the forfeiture thereof*, it is mentioned, that *the King for the profit of his Realm, minding to provide a convenient remedy by the advice of his Prelates, Earls, Barons, and others of his Subjects being of his Councel, hath provided and ordained, &c.*

10. *E.* 1. in the Statute of the *Exchecquer*, touching the recovery of the Kings Debts, the *King by his Writ directed* to the Treaſurer, Barons, and Chamberlains of the Exchecquer for the Indempnity of him and his People, *Willed and Provided.*

Anno. 13. *E.* 1. in the Statute of *Acton Burnell* made for recovery of Debts, the *King for himſelf and by his Councel hath Ordained and Eſtabliſhed.*

In the Statute of Entails that the *Will of the Donor ſhould in all things be performed, Ca.* 1. (which was of a grand Concern to all the Nobility, Gentry, and Freeholders of *England* in their Dignities, Families, Lands and Eſtates, and

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the tranſmitting them to Poſterity) it is ſaid, wherefore our *Lord the King* perceiving how neceſſary and expedient it ſhould be to provide remedy, *hath ordained.*

In *Ca.* 3. where a *cui in vita* ſhall be granted, and a Wife, or he in reverſion received, the *King hath ordained.*

Ca. 6. Where a Tenant Voucheth, and the Vouchee denyeth the Warranty, *the King hath ordained.*

*Ca.*9.Entituled in what caſe theWrit of *Meſne* is to be purſued, it is ſaid in the percloſe, *that for certain cauſes, Remedies are not in certain things provided, God willing, there ſhall be at another time.*

Ca. 10. Providing at what time Writs ſhall be delivered for ſuits depending before Juſtices in *Eyre*, the parties may make Generall Attorneys, it is ſaid, *the King hath ordained.*

Ca. 14. Concerning *Proceſs* to be made in waſt, our Lord the *King from henceforth to remove this error hath ordained.*

Ca. 24. For the granting of Writs of Nuyſance *quod permittatis in conſimili caſu*, where the King *ordaineth* (for which by no ground or colour of reaſon it is otherwiſe to be underſtood) that whenſoever from thenceforth it ſhould fortune that in *Chancery* (which is no body's Court but the Kings) a like Writ is found, and in another caſe falling under the like Law a like remedy is not found, the Clerks of the *Chancery* ſhall agree in making the Writ, or the Plaintiffs may adjourn it untill the next Parliament, and let the caſes be written in which they cannot agree, and let them referr themſelves untill the next Parliament by conſent of men learned in the Law (which could not in thoſe times be underſtood as of the Members of theHouſe of Commons,none of them being then choſen or Summoned to give their conſent in Parliament.

Ca. 25. In the Act of Parliament entituled of what things an Aſſize ſhall be certified.

It is ſaid, that foraſmuch as there is no Writ in the *Chancery* whereby Plaintiffs can have ſo ſpeedy remedy by a Writ of *Novell Diſſeiſin, our Lord the King willing that Juſtice may be ſpeedily, miniſtred and that delays in Pleas may be taken* away or abridged, *granteth, &c.*

And our *Lord the King* to whom falſe exceptions be odious *hath ordained, &c.*

The like words of the *King's* granting and ordaining are to be underſtood in the Chapters immediately following, *viz*, Ca. 26. 27. 28. 29. and 30.

In that of 13. E. 1. ca. 30. The two Knights of the Shire

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are changed by length of time or ſome other cauſes, into thoſe which are now called Aſſociates, and are indeed but the enrolling Clarks, which by that Statute are allowed the Juſtices in their Circuits, as they have uſed to have in times paſt.

Were not Knights of the Shire Elected for an Houſe of Commons in 29. E. 1. ca. 5. the *King willeth* that the Chancellor and Juſtices of his Bench *ſhall follow his Court, ſo that he may at all Times have ſome near unto him which be learned in the Laws, and be able to order all ſuch matters as ſhall come unto the Court at all Times when need ſhall require.*

And the like that the *King ordained and willed* is to be underſtood in the chapters or articles 31. 32 33.

In that of 32. where it is mentioned, and ſo the Statute is defrauded, it is ſaid *our Lord the King hath ordained and granted.*

Ca. 39. Concerning the manner of Writs to be delivered to the Sheriffs to be executed it is ſaid, that *our Lord the King hath provided and ordained, &c.* And the *King hath commanded* that *Sheriffs ſhall be puniſhed by the Juſtices for falſe Retornes once or twice if need be.*

Ca. 41. entituled *contra formam collationis*, which was of great concernment in their lands and eſtates, and alſo as they then thought in matters of proviſion for the ſouls of their parents, Anceſtors, and near relations it is ſaid our Lord *the King hath Ordained.*

In *ca.* 42. appointing the ſeveral fees of Marſhall, Chamberlains in fee, Porters of Juſtices in Eyre, &c. which was of great Importance to many, it is mentioned that *our Lord the King hath cauſed to be* enquired by an enqueſt what the ſaid Officers of fee uſed to have in times paſt, and hath ordained and commanded that a Marſhall in fee, &c. which was then *Roger Bigod* Earl of *Norfolk*, a man of great power and authority; it is in like manner *Ordained.*

Ca. 43. That Hoſpitalers and Templers (which were a part of the People then of great Eſtates, Power, and Authority in the Kingdom) ſhall draw no man in ſuite, &c. it is ſaid to have been prohibited, and the *King alſo prohibiteth.*

Ca. 44. Setling the Fees of Porters bearing Virges before the Juſtices, &c. it is ſaid, be it provided and ordained, and *the King chargeth his Juſtices.*

In the Statute of *Wincheſter* made in *Anno.* 13. *E.* 1. that freſh ſuit ſhall be made after Felons from Town to Town, our Lord the *King to abate the Power of Felons, hath eſtabliſhed a pain in that caſe.*

Ca. 2.

Ca. 2. Where the County ſhall anſwer for the Robbery where the Felon ſhall not be taken, which though it was an excellent Law and ever ſince put in execution, might upon the firſt impreſſion ſeem to bear hard upon the People, that they not committing the Crimes ſhould be reſponſable in their Purſes and Eſtates for it, the preamble ſaith likewiſe, our *Lord the King hath Eſtabliſhed.*

Ca. 3. Reſpiting that Act until *Eaſter* then next nſuing, it is mentioned that foraſmuch as the *King will not that his People ſhould be ſuddenly impoveriſhed by reaſon of the penalty,* which ſeemeth very hard to many, *the King granteth that they ſhall not incurr immediately, but it ſhould be reſpited untill Eaſter next following,* within which time he *may* ſee how the Countrywill order themſelves&whether ſuch felonys do ceaſe. *After which time let them all be aſſured,that the aforeſaid Penalties ſhall run generally,that is to ſay,the People in theCountry ſhall be anſwerable for Felonies & Robberies done amongſt them.*

In an Act of Parliament at what time the gates of great Towns ſhall be ſhut, and Night-Watches begin and end, it is ſaid the *King commanded.* Ca. 4

For the breadth of High-ways leading from one Market-Town to another, it is ſaid, and further it is *Commanded.* Ca. 5.

In the Act of Parliament that every man ſhould have Armour in his houſe according to his ability, it is ſaid, and further *it is commanded,* and the Juſtices aſſigned ſhall preſent in every Parliament unto the King, ſuch defaults as they ſhall find, and the *King ſhall provide remedy* therein. Ca. 6.

In the Statutes of Merchants made in the ſame year wherein the form of a Statute Merchant is appointed, it is recited that the King and his Councel at his Parliament holden at *Acton Burnell* in the 11th year of his Reign hath ordained.

In the Statute of *Circumſpecte Agatis,* the King only ſaith, Uſe your ſelf circumſpectly, concerning the Biſhop of *Norwich* and his Clergy.

In the Statute of *Quia Emptores terrarum* made in the 18th of his Reign it is ſaid our *Lord the King* in his Parliament at the inſtance of the great men of the Realm *hath granted, provided and ordained* that *the Feoffees* or *Alienees ſhall hold of the chief Lord of whom the Lords were holden.*

Ca. 2. If part of the lands be ſold it is to be apportioned, and it is, to wit, that this Statute extendeth, but only to lands holden in fee ſimple, and for the time coming, and is to take effect at the Feaſt of *St. Andrew* next.

In the Statute of *Quo Warranto* liberties are holden, our

Lord the King of his eſpecial grace, and for the affection which he beareth unto his Prelates, Earls, and Barons, and other of his Realm hath granted.

In a 2d Statute of *Quo Warranto* to the ſame Effect hath Eſtabliſhed.

In the Statute *de modo levandi fines* it is to be noted, that the order of the Laws will not ſuffer a finall accord to be leavyed in the Kings Court without a Writ Original.

In the Statute of *Vouchers* made in the 20th Year of his Reign, *Our Lord the King* by his Common-Councell hath ordained.

In another of the ſame year concerning waſt committed by Tenant for life, *Our Lord the* King *hath ordained.*

In the Statute *de defenſione juris*, *Hath* ordained, and from henceforth *commanded.*

In a Statute *de non ponendis in Aſſiſis* made in the 21*ſt* year of his Reign, *Our Lord the King hath ordained.*

By an Act of Parliament made in the ſame year *de malefactoribus in parcis*, Our *Lord the King* hath granted and commanded.

In the Statute or Act of Parliament *de Conſultatione*, made in the 24th Year of his Reign *Willeth and commandeth.*

In the Confirmation of the great Charter, and the Charter of the Foreſt in the 25th Year of his Reign *Granteth and Willeth.*

In Ca. 2. That Judgements given againſt them ſhould be void it is ſaid *We will.*

The like in Ca. 3 and 4.

In Ca. 5. *We have granted.*

In Ca. 6. That the King or his Heirs will for no buſineſs whatſoever take aids or prizes, but by conſent of the Realm, and for the Common profit thereof, ſaving the Ancient aids and prizes due and accuſtomed, it is ſaid, *Moreover we have granted.*

In Ca. 7. for a releaſe of Toll taken by the King for Wool, without conſent as aforeſaid, ſaving the cuſtom of Wools, Hides and Leather granted by the Commonalty, it is ſaid, that the *King at their requeſt hath clearly releaſed and granted.*

The King haſting into *Flanders* to aid his Confederate the Earl thereof, againſt the Continued envy, malice, and deſigns of the King of *France* his malignant Neighbour, conſtituted (without Licenſe of Parliament) his Son *Edward* then being under age the *Cuſtos* or Guardian of the Kingdom, and appointed *Richard* Biſhop of *London*, *William* Earl of *Warwick*,

Walſingham, *Hiſt. E.* 1. 75. & 76.

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nec non & milites Reginaldum de Gray, Johannem Gifford & Alanum Plukenet viros emeritæ militæ, providos & discretos to be his Assistants and Councellors, who in the Kings absence with much ado, and with *nullam aliam sentire vellent*, obtained a Peace to be made with the Earl of *Hereford* and Earl Marshal, that the King should confirm the great Charters with the aforesaid Articles added in the 2. 3. 4. and 5. of that Parliament, and to the 6. of *Nullum Tallagium*, but by the consent of the Realm, and for the Common profit thereof, saving *ut supra*, releasing the Tolls of Wool.

Which being sent unto the King were returned *sub sigillo suo tanquam*, saith the Historian, *ab eo qui in Arcto positus erat cedendum malitiæ temporis censuit*, upon the confirmation whereof the *populus Anglicanus concessit denarium nonum bonorum suorum.*

But the King being returned in the 26th Year of his Reign was pressed in Parliament by the aforesaid Earls, the Constable & Marshal, because the Charters were confirmed in a Forreign Country, to do it again, for that the Bishop of *Durham* and the Earls of *Surrey*, *Warwick* and *Glouceſter*, had promised, that *obtenta victoria* against the *Scots*, he should *post ejus reditum* do it, and in the 27th Year of his Reign, being again in a Parliament holden in *London*, urged by the said Earls to do it, *post aliquas dilationes*, was willing to do it with an addition of *Salvo jure Coronæ*, with which the Earls being displeased and leaving the Parliament, *revocatis ipsis ad quindenam Paschæ ad votum eorum absolute omnia sunt concessa.*

Which begot the Statute said in the printed book of Statutes published by Mr *Poulton* to be *incerti temporis. E.* 1. but it is to be beleived for the Reasons aforesaid to have been made in the 27th year of his Reign in those only words, that no Tallage or Aid shall be taken or leavied by us or our heirs in our Realm, without the good-will and assent of Arch-Bishops, Earls, Barons, Knights, Burgesses, and other Freemen of the Land.

In the Statute of Wards and Reliefs 28. *E.* 1. Who shall be in ward, and pay relief, which seemeth to be a declaration of the King alone, being for the most part of matters concerning himself, and his undoubted casuall revenue, it is to Wit when in the Statute immediately following touching persons appealed, it is said, the King *hath granted, ordained, and provided.*

In the Statute called *Articuli super Chartas*, ca. 1. in the confirmation of the great Charter and the Charter of the Forest,

Foreſt, in the later end and cloſe thereof are theſe words, *viz.* And beſides theſe things granted upon the Articles of the Charters aforeſaid, the King *of his eſpecial grace* for redreſs of the grievances which his people hath ſuſtained, by reaſon of his Wars, and for the amendment of their Eſtate, and to the intent that they may be the more ready to do him ſervice, and the more willing to aſſiſt him in the time of need, *hath granted* certain Articles, the which he ſuppoſeth ſhall not only be obſerved of his Leige People, but alſo ſhall be as much profitable, or more then the Articles *heretofore granted.*

That none ſhall take prices, but the Kings Purveiors or
Ca. 2. their Deputies, it is ſaid to be *Ordained with a Nevertheleſs the King and his Councell do not intend by reaſon of this Eſtatute to diminiſh the Kings right, for the ancient prizes due and accuſtomed, as of Wines, and other goods, but that his rights ſhall be ſaved unto him whole, and in all points. Declaring of*
Ca. 3. *of what things only the Marſhall of the King's Houſe ſhall hold plea, &c. It is Ordained.* And in Another Act Entituled, *Common Pleas ſhall not be holden in the Exche-*
Ca. 4. *quer, it is ſaid, moreover no Common Pleas ſhall from henceforth be holden in the Exchequer contrary to the form of the Great Charter.*

That no Writ concerning the Common Law ſhall be a-
Ca. 6. ward under any *Petit Seal.*

The authority of the Conſtable of the Caſtle of *Dover*
Ca. 7. touching hold pleas and diſtreſſes.

That the Inhabitants of every County ſhall make choice of their Sheriff being not of Fee, it is ſaid, that the *King*
Ca. 8. *hath granted to his people* that they ſhall have Election of their Sheriff in every Shire where the Shrievalty is not of Fee, if they liſt, which would have been very prejudicial both to the King and his people, as to the collecting of his revenue, and Executing his Juſtice by his Mandates, Writs, and Proceſs, if the confirmation, allowance, or diſallowance thereof had not been by Law lodged in the King and his Supream authority.

What perſons ſhall be returned in every Jury, *the King*
Ca. 9. *Willeth and Commandeth.*

For a remedy againſt Conſpirators, Falſe Enformers,
Ca. 10. and Embracers of Juries, *the King hath provided a remedy.*

Againſt Mainteynors of Suits, it is ſaid, the *King willeth,* but it may not be underſtood hereby that any perſon ſhall
Ca. 11. be prohibited to have Councel of *Pleaders,* or of Learned Men in the Law for his Fee, or of his Parents or next Friends.

What

What diſtreſs ſhall be taken for the Kings debts, and how it ſhall be uſed, *the King willeth.* Ca. 12.

What ſort of Perſons the Commons of ſhires ſhall chuſe for their Sheriffs, foraſmuch as *the King hath granted*, it is ſaid; *the King willeth.* Ca. 13.

That Baylewicks and Hundreds ſhall not be let too dear to charge the people with contribution. Ca. 14.

In ſummons and attachments in plea of land, the writ ſhall contain 15 daies, it is in like manner to be underſtood. Ca. 15.

In like manner againſt falſe retornes of writs. Ca. 16.

The King willeth that the Statute of *Wincheſter* ſhall be read 4 times in the year, and put in execution. Ca. 17.

The *King willeth* that Eſcheators ſhall commit no waſt in Wards lands. Ca. 18.

In an act of Parliament declaring in what caſes the owner ſhall have his lands delivered out of the King's hands with the iſſues, *it is ſaid the King willeth.* Ca. 19.

In an Act of Parliament that veſſels of gold ſhall be aſſayed, it is ſaid to have been ordained, and that notwithſtanding all thoſe things before-mentioned, or any point of them, both the King and his Councell, and all that were preſent at the making of that Ordinance (meaning the Judges and Aſſiſtants of that Honourable Court) *will and intend that the right and prerogative of his Crown ſhall be ſaved to him in all things.* Ca. 20.

In the Statute *de Eſcatoribus* 29. *E.* 1. at the Parliament of our Lord the King at *Lincoln* in his Councell, it was agreed and alſo *commanded by the King Himſelf*, and this order ſhall be held from henceforth in the *Chancery* notwithſtanding a certain ordinance lately made by our *Lord the King* concerning lands, and tenements taken into his hands by his officers, and not to be delivered but by *the King himſelf*, and as it is conteined in a Certain *dividenda* or indenture made betwixt the King himſelf and his *Chancelor*, whereof one part remaineth in the Cuſtody of the *Chancelor.*

In the new Statute of *Quo Warranto* made *Anno* 30. *E.* 1. it is recited that the King *himſelf* in the 6 year of his Reign, *providing for the wealth of his Realm, and the more full adminiſtration of Juſtice as to the Office of a* King *belongeth the more diſcreet men of the Realm, as well* high *as of low degree being called thither, it is provided* and ordained; *but in the writs framed to enquire by what warrant the Liberties were granted to the people, they are ſaid to be in Parliamento noſtro per nos & concilium noſtrum.*

31. *E.* 1. In an ordinance for Meaſures, it is ſaid, that by the conſent of the whole Realm of *England* the King's meaſure was made.

In the Statute of 33. *E.* 1. Touching protections, granted by the King, it is ſaid to have been provided. In the ordinance or definition of Conſpirators made in the aforeſaid Year it is declared that this ordinance and final definition of Conſpirators was made and *aworded by the King and his Councell in Parliament.*

In the Statute of Champerty made in the 33*d* year of the Reign of the aforeſaid King it is recited, that whereas in our Statute it was contained, and provided by a common accord, the writ framed thereupon mentioneth that law to be *the Kings Ordinance.*

In the Ordinance for enqueſts made in Parliament the ſame year, it is ſaid to have been agreed and ordained *by the King* and *all his Councell.*

In the *ordinatio Foreſtæ* made in the year aforeſaid whereas certain people have by great men made requeſt to our *Lord the King* that they may be acquitted of their charge, and the demand of the Foreſters, our *Lord the King* anſwered *that when he had granted Pour lieu, he was pleaſed it ſhould ſtand as it was granted, albeit the thing was ſued and demanded in an evill point.*

Nevertheleſs *he willeth and intendeth* that all his demeaſne
33. E. 1. lands, which have been of the Crown or returned unto it by Eſcheat or otherwiſe ſhall have free chaſe and free warren and in right of them that have lands and tenements diſafforeſted for the ſaid Pourlieus, and ſuch as demand to have Common within the bounds of foreſts the *intent and will of our Sovereign Lord the King is &c.*

And if any that were diſafforeſted would rather be in the Foreſt, *it pleaſeth the King very well and our Lord the King willeth and commandeth the Juſtices of the Foreſt, &c.*

In *Anno* 34. of his Reign there being an Ordinance for meaſuring of Land.

In the ſame Year the K*ing by his* Letters-Patents with the *Teſte meipſo* certifying *the Statute de Conjunctim Feoffatis* declared that it was no new thing that among divers eſtabliſhments of Laws which *he had ordained in his time* upon the great and heinous miſchiefs that happen in Writs of *Novel diſſeiſin* chiefly above others he (as if he neither did know or believe any co-ordination, or that he was to be tutored by a Conſervatorſhip) *had deviſed a more ſpeedy remedy then was before,*

before, and willeth and granteth that that Statute ſhall take his effect the morrow after the feaſt of St Peter ad Vincula next coming.

In the Statute for Amortiſing of Lands *tempore E.* 1. the King *commandeth*, &c.

In Ca. 4. Which ſeemeth to be about the 27t' Year of that Kings Reign *in the confirmation of all our Laws, Liberties, and Cuſtomes* it is ſaid that *the King willeth and granteth, if any Statutes have been made or any cuſtomes brought in contrary thereunto*, that *ſuch Statutes, and Cuſtomes ſhall be void for* evermore.

And for the more aſſurance of this thing we will and grant that all Archbiſhops and Biſhops for ever ſhall twice in the year cauſe to be openly read in their Cathedralls the ſaid Charters and denounce curſes againſt the willing infringers thereof, and the Archbiſhops, Biſhops, &c. have voluntarily Sworn to obſerve the tenor thereof. Ca. 6.

In the *ordinatio pro Statu Hiberniæ* made by him at *Nottingham* by the aſſent of his Councel there being in Ca. 6. in what caſes the Juſtices of *Ireland* may grant pardon of Felony &c and where not, there is an exception ſo always that there be no pardon or protection granted of thoſe Felonies which ſhall be hereafter committed *without the Special Commandment of us our ſelves.*

In the *Ordinatio Foreſtæ* made in the 34th Year of his Reign *the King ordained.*

The like in Ca. 2. That an Officer dying or being abſent another ſhall be put in his place.

That no Foreſter ſhould be put in any Aſſize or Jury *the King willeth.* Ca. 3.

The like touching the puniſhment of Officers ſurcharging the Foreſt. Ca. 4.

The like for Grounds diſafforeſted. Ca. 5.

Touching Commons in Foreſts and that the Juſtices of the Foreſt in the preſence of the King's Treaſurer, and by his aſſent may take fines, and amerciaments, it is ſaid, *the King willeth.* Ca. 6.

In the Statute *de Aſportatis Religioſorum* it being recited, that it came to the knowlege of *our Lord the King* by the grievous Complaints of the honourable perſons Lords and other Noblemen of this Realm, that Monaſteries and other Religious Houſes founded by the King and his Royal Progenitors, and by the ſaid Noblemen, and their Anceſtors, and endowed with great portions of Lands, that the Abbots and Priors eſpecially

cially certain aliens Priors &c. have letten the ſaid lands and laid great impoſitions andtallages thereupon, *our Lord the King by the Councell of his Earles, Barons, great men, and other Nobles of his Kingdom* (no Commons) *in his Parliament hath ordained and enacted.*

Ca. 2. That Religious perſons ſhall ſend nothing to their Superiors beyond the Seas.

Ca. 3. That no Impoſitions ſhall be Taxed by Priors, Aliens, it is ſaid, moreover our aforeſaid *Lord the King doth inhibit it.*

Ca. 4. By whom the Common Seal of the Abbys ſhall be kept and how uſed, it is ſaid, and further our *Lord the King hath ordained and eſtabliſhed.*

And though the publication and open notice of the ordinances and Statutes aforeſaid were in ſuſpence for certain cauſes ſince the laſt Parliament until this preſent Parliament holden at *Caerliſle* the Octaves of St *Hilary* in the 35 Year of the Reign of the ſaid King, to the intent they might proceed with greater deliberation and advice, *our Lord the King* after full conference and debate had with the Earls, Barons, Noblemen, and other great men of his Kingdom (no Commons) touching the premiſſes by their whole conſent and agreement, *hath ordained and enacted*, that the ordinances and Statutes aforeſaid, under the manner, form and conditions aforeſaid from the 1ſt day of *May* next enſuing ſhall be inviolably obſerved for ever, and the offenders of them ſhall be puniſhed as is aforeſaid.

And ſo well did he and the Lawyers of that age underſtand the Originall, Benefit, and uſe of the Feudall Laws, the Ancient Honour, Glory, and Safety, of the *Engliſh* Nation, their Kings Princes and People, as he did, (as the Learned and Judicious Dr. *Brady* hath aſſerted) in and by the right of the *Feudal* Laws, and their original grant of the Fees (without aſſent or advice of Parliament) give licenſe to their Tenants to Talliate, Tax, and take Scutage for ayd of performing the Knight or Military Service, incident or chargeable upon their Lands ; and likewiſe to Tenants (otherwiſe employed by the King) in *Capite*, though not in the Army to charge their Tenants with *Scutage*, warranted by the Writ following, in the 10th Year of his Reign directed to the Sheriff of *Worceſter* in theſe words.

Dr. Brady *in his Anſwer to Mr.* Petits *Eſſential and Conſtituent Rights of the Houſe of Commons in Parliament. fo.* 117. *Et ro.* 10. *E.* 1. *Ro. Scotiæ & abinde ad* 19. *E.* 1.

Rex Vicecomiti Wigorn. ſalutem, Quia dilectus, & fidelis noſter, Hugo le diſpencer per præceptum noſtrum fuit cum dilecto conſanguineo & fideli noſtro, Edmundo Com. Cornub. qui moram

am traxit in Anglia pro conſervatione pacis noſtræ, Anno regni noſtri decimo, nobis tunc exiſtentibus in Guerra noſtra Walliæ, Tibi præcipimus quod eidem Hugoni facias habere ſcutagium ſuum in feodis militum quæ de eo tenentur in balliva tua, videlicet quadraginta ſolidos de Scuto pro exercitu noſtro prædicto, & hoc nullatenus omittas T. Edmundo Comite Cornubiæ Conſanguine Regis apud Weſtm. 13 die Aprilis.

Et Conſimiles literæ diriguntur vicecomitibus Leiceſt. Eborum, Lincoln. Suff. Wilts. South. Surr. Buck. Eſſex. North. Oxon, Berk. Norff. Staff. Rotel. & Juſtic. Ceſtr.

And a Writ on the behalf of *Henry de Lacy* Earl of *Lincoln*, directed the Sheriff of *York* in the Words, *Quia dilectus & fidelis noſter, Henry de Lacy, Comes Lincoln, non ſine magnis ſumptibus & expenſis, ad Communem utilitatem regni noſtri in obſequium noſtrum per præceptum noſtrum, in partibus Franciæ, pro reformatione patis inter nos & Regem Franciæ, tempore quo Eramus in Guerra noſtra Scociæ Anno videlicet Segni noſtri 31. Quod quidem obſequium loco ſervitii ſui quod tunc nobis feciſſe debuerat Acceptamus, tibi præcipimus quod eidem Comiti haberi facias ſcutagium ſuum de feodis militum quæ de eo teneantur in balliva cua videlicet Quadraginta ſolidos de ſcuto pro Exercitu noſtro prædicto, Et hoc nullatenus omittas Teſte Rege apud Weſtm. 6. die Aprilis.* *Ro. Scutag. 31. E. 1. m. 2.*

Conſimiles literas habet idem Comes direct. Vicecomitibus Warr. Bedford. Buck. Somerſet. Dorſet. Glouc. Norff. Suff. Hereford. Leic. Lenc. Notting. Derby. Northampton. Midd. Cantabr. Oxon, Berk.

Another on the behalf of *Henry de Percy* in the form enſuing, *videlicet, Rex vicecomiti Eborum ſalutem, Quia dilectus & fidelis noſter Henricus de Percy fuit nobiſcum per præceptum noſtrum in exercitu noſtro Scotiæ Anno Regni noſtri 31. Tibi præcipimus quod eidem Henrico haberi facias Scutagium ſuum, de feodis militum que de eo tenentur in balliva tua, videlicet quadraginta ſolides de Scuto pro Exercitu noſtro prædicto, & hoc nullatenus omitas teſte Rege, &c.*

Conſimiles literas habet idem Henricus Vicecomitibus Lincoln. Derb. Notting. Cant. Hunt. Norff. Suff. Salop. Stafford.

Conſimiles literas habent Executores teſtamenti Johannis de Watrenna quondam Comitis Surr. defuncti, probably the ſame man that being called to an account, *Quo Warranto* he held many of his Liberties, is ſaid over Sturdily to have drawn out or unſheathed an old broad Ruſty Sword, and ſhewing unto the Juſtices Itinerants, inſtead of his Plea anſwered, by this which helped *William* the *Conqueror* to Subdue *England*,

which ſo much incenſed the King as he afterwards, as ſome of our *Engliſh Annaliſts* have reported at his return home cauſed him to be Beſieged in his Caſtle at *Rigate*, untill in a better obedience to his Laws he had put in a more Loyall and Legall Plea.

Had the like *letters de Habend. Scutag. de feod. militum, quæ de ipſo Comite tenebantur die quo obiit in guerra Regis Speciale direct Vicecomitibus Surr. Suſſex, Eſſex, Hereff. Buck. Lincoln. Northampton. Ebor.* by writ of privy ſeal.

Conſimiles literas habuit prior de Coventry qui finem fecit &c. direct. Vicecomitibus Warr. Liec. Northt. Glouc. Wigorn. Abiſſa Shafton quì fecit finem, &c. Habet Scutagium ſuum.

But if aids and Scutage were aſſeſſed by Parliament the military Tenants were to be the only Collectors thereof.

35. *E.* 1. In the Statute *Ne rector proſternat arbores in Cæmiterio*, it is ſaid, that becauſe we do underſtand that Controverſies do oftentimes grow between Parſons of Churches and their Pariſhioners concerning Trees growing in the Church-yards, both of them pretending that they do belong unto themſelves, we have thought it good rather to decide the controverſy by writing then by Statute, and declaring them to be parts of the goods of the Church, the King did *Prohibit* the Parſons of the Church that they do not preſume unadviſedly to fell them, but when the Chancel or the body of the Church wanted neceſſary reparations in which caſes the Parſons of their Charity ſhall do well to relieve the Pariſhioners with beſtowing upon them the ſame Trees, which he *will not command to be done*, but *will commend it when it is done.*

So happy and ready was the obedience & better Wiſdom of the Subjects of this Kingdom in the ancient and former Ages, when an agreement made before the King or his word was adjudged to have the power & force of a Fine, & any one of his Writs or Edicts wanted not the operation and efficacy in many things of an Act of Parliament or Statute, and ſo degenerate and unhappy are our preſent times as to ſuffer our intereſt and wrangling peeviſh diſputes, to diſobey or lay aſide not only the *King's* mandates and edicts in the ordinary and neceſſary courſe of his Government, but in extraordinary and his Supream power in Parliament.

Who was as well furniſhed with Common as he was with *Civil* Lawyers, which as a *militia togata* were as ſtrong and impregnable forts and bulwarks to help to guard his Crown and Dignity, namely, *Henry de Bracton*, *John de Breton*, the ſincere and upright *John de Metingham*, *& Elias de Beckingham*

kingham, together with *Accurſius* Doctor *utriuſque Juris* Civil and Canon *Gilbert de Thorneton* firſt his Attorney general, afterwards Chief Juſtice *ad placita coram Rege*, *Gilbert de Rowbery*, *Roger Brabazon* and *William Howard* a Juſtice of the Court of Common Pleas, *cum multis in legibus eruditis & fide dignis* as to this day it appeareth in the ſteddy and unarbitrary pleadings and Records of his glorious Reign.

Dugdales *Originet Juridic. & Catalog. Juſtic.*

In whoſe Time it was not denied to be Law and Right Reaſon that that *verificatio patriæ Contra Chartam Regis non eſt admittenda.*

And did in the making of his Laws but imitate his great Anceſtors.

For King *Ina* who Reigned in *Anno Domini* 712. *Conſedi patris ſui Heddæ & Ercenwaldi Epiſcoporum ſuorum omnium ſenatorum ſuorum & natu majorum ſapientum populi ſui in magna ſervorum Dei frequentia* who in his making of his Laws did believe it neceſſary in his *Imprimis* to uſe the word *precipimus.*

Leges Anglo-Saxoniæ tranſ. per Abrahamum Whilocum

King *Alured* who began his Reign in *Anno Domini* 871. made his Laws with a *Propoſuimus & eſto* and in thoſe which were publiſhed by *Johannes Brompton* with a *Præcipimus.*

King *Æthelſtan* who Reigned in the Year 930. made his Laws *prudenti Ulfhelmi Archiepiſcopi aliorumq*; *Epiſcoporum ſuorum concilio* with a *Significo*, *Decrevimus*, *Statuimus & omnibus clare ſignificat*, and ſaith *Brompton Mandat præpoſitis ſuis*, and declared many of his Laws with a *Volo & diximus & Ediximus & Placuit nobis.*

Brompton de legibus Saxonicis.

King *Edmund* that began his Reign in *Anno* 940. made his Laws *ſolemni Paſchatis Feſto frequentem Londini tam Eccleſiaſticorum quam Laicorum cœtum celebravit cui inter fuerunt Odo & Wolſtanus Archipræſul. plurimiq*; *alii Epiſcopi* with an *Ego Edmundus Rex omnibus qui in ditione ac poteſtate mea ſunt clare ſignifico Decrevimus.*

Edwardus Rex ſaith, *Brompton* made his Laws with a *mandit & Præcipit omnibus præfectis & amicis ut juſta judicia judicent & injudiciali libro ſtant & quod unum quodq*; *placitum terminum habeat.*

King *Edgar* who began his Reign in *Anno* 959. made his Laws *frequenti ſenatu* with a *Sancivit Porro autem hæc populo* (who were not then underſtood to be Law-makers) *quas ſervet proponimus leges & publici juris beneficio quiſq*; *fruitor*, and like his Predeceſſors made them ſhort and *imperative* and his Canons in Eccleſiaſtical Affairs with a *Docemus.*

King *Ethelredus* who began his Reign in *Anno Domini* 979, made his Laws *ſapientum concilio habito Woodſtoci Mer-*

cia

ciæ quæ legibus Anglorum gubernatur ſolely & imperatively with an Eſto.

Canutus Anglorum Dacorum & Norwegiorum beginning his Reign here in *England* in *Anno Domini* 1016, made his Eccleſiaſtical Laws *ſolely and imperatively* with an *Imperimus ſapientum concilio ad natale Domini.* And his *humanæ & politica ſapientum concilio* with an *Omnibus obſervari præcipio, Edocemus & Eſto,* and touching his Dominions of *Mercia* with an *Hæc eadem* in *Mercia pro ſuis vendicat præterea præcipimus,* and an *Eſto, Satisfacto & pœnas dependito, Compenſato, Caſtigetur, Exterminetur, in poteſtatem detur, Plectitor, Mulctator, mando Invitus cogatur, Habetor, & omnibus & ſingulis in Dei nomine obteſtor & præcipio.*

Chronic. Lichfielden. *Gulielmus Rex Anglorum cum Principibus ſuis conſtituit poſt conquiſitionem Angliæ quædam decreta* with a *Volumus & firmiter præcipimus, Statuimus, Decretum eſt, Interdicimus, Prohibimus,* & when the *Engliſh* had in the 4th Year of his Reign *fletibus & precibus* by the aſſiſtance of his *Norman* Subjects alſo obtained of him a confirmation of King *Edward* the *Confeſſors* Laws, and to be governed by them, it is ſaid to have been *concilio Baronum* after an enquiry throughout all *England,* and Certificate returned *per univerſæ Angliæ conſulatus Anglos nobiles ſapientes & ſua lege eruditos* what thoſe Laws and Cuſtoms were, *Et cum Rex quæ audiſſet cum aliis ſui regni legibus maxime appretiatus eſt & præcepit ut obſervaretur per totum regnum.*

LL. Gulielmi Conqueſt.

And they that will peruſe the laborious Collections of my ever honoured friend *Mr Edward Falconbergh,* one of the Deputy *Chamberlains* of the Exchecquer, the trueſt lover and carefulleſt preſerver (of the Records, entruſted to his Charge) that ever come into that place, the very ancient *Gervaſius Tilburienſis,* Mr *Agard Scipio le Squier,* & many other learned men, in the revolution of more then in that Office 600 Years laſt paſt in that Office (not excepted) of the proceedings upon the very many *Quo Warranto's,* brought before the Juſtices Itinerant in their ſeveral Circuits, throughout all the parts of the Kingdom, in the Reign of King *Edward* the firſt as well High as Low, Lords Spiritual and Temporal, Abbots and Priors, Great or Small, therein ſparing not his own Brother, *Edmond* Earl of *Kent,* may have premiſſes enough to conclude, that that Stout and Magnanimous Prince did (as our Common *Engliſh* ſaying is) lay about him, and had a mind to let his friends, the Kings and Princes, at the before mentioned Congreſs, at *Montpelier* in *France* underſtand

ſtand that he knew how to perform what he had promiſed and undertaken.

And it was high time to do it and look about him, when the *Beneficiarii*, his Tenants *in Capite*, would not be content to be gratefull, and allways keep in remembrance the Obligations incumbent upon their Lands, Eſtates, Anceſtors, and Poſterities paſt or to come, and their Oaths of Allegeance and Supremacy grounded thereupon, unleſs they might ſo work upon the favours, Indulgence, (and many times) neceſſities of their Kings and Princes, as to procure as much as they could of their Regall power and Authority into their hands, as an addition to the many Manors and Lands formerly beſtowed upon their forefathers, ſeverall Precious Flowers of the Crown, as *Fines and Amerciaments*, *Aſſize of Bread and Beer*, *Felons, and Outlaws Goods*, *Year, Day, and Waſt*, *Deodands*, *Waifs*, *Eſtreats and Herriot*, *foſſa & furtus*, *Pillory and Tumbrell*, *&c.* And the then over-powering Clergy, with their Multitudes of Abbotts, Priors, and ſeveral orders of Monks, Fryars and Nuns, working upon our former Kings and Princes Devotions and Liberalities, heightned and procured by their too many tales and fictions of Miracles and Relicques, attracted unto themſelves and their ſeveral Houſes and Societies as much of their Kings Regalities, as could, with any Juſtice to themſelves or the reſt of their Subjects and people, or any reaſon, be required, or asked of them: And were Anciently ſo fearfull to looſe what they ſhould not in that manner have gained, as the *Charter* and *Patent*-Rolls of many of our ancient Kings never wanted the company of the many Confirmations of ſuch kind of unbecoming grants; and it may moreover juſtly be attributed unto the over-much Clemency and Indulgence of our *Common Parents*, Kings and Princes, that in their many Acts of *Reſumptions* of no ſmall quantities of Manors and Lands aliened from the Crown of *England*, which as to its real Eſtate in Lands, is almoſt reduced to an Exinanition or much too little for a Royal Revenue, they have notwithſtanding, without any diminution permitted their *Feudatories* to enjoy thoſe very many Regalities, which made them live like ſo many *Subreguli* or *Petty Kings* or Princes under them, and leave them ſo far exceeding the Old *Saxon Heptarchy*, as Ten thouſand Manors in *England* and *Wales* unto their great Regalities and Liberties can amount unto no leſs then a ſtrange kind of *Poliarchy* in a Monarchy, which like *Eſau* and *Jacob* Strugling in the Womb never after agreed together,

which that great Prince King *Edward* the 1. *ſuis & aliorum miſeriis edoctus* did endeavour to prevent, and leave it to his Heirs and Succeſſors as it ought to be a moſt Ancient great and entire Monarchy.

Was ſo exact and carefull in the Cauſing of Juſtice to be done, unto his people and Subjects, as by himſelf or his Juſtices Itinerant and Juries Impannelled to enquire according to certain Articles given unto them in writing, unto which they were to anſwer negatively or affirmatively, (not as is now uſed by the Juſtices of the Court of *Kings Bench*, twice every Year upon the Impannelling of the grand Juries of the County of *Middleſex*, or by the Judges in their ſeveral *Circuits* to the Grand Juries of the ſeveral Counties or places, by their Learned ſpeeches, and recommending unto them what they ſhould enquire, and preſent what they know, and not tarry untill by chance or malice it be brought unto them) which for the moſt part proves to be as little effectual, as if they ſhould be required to have a care of their Bill of Fare, or what good proviſion of Meat and Wine was to be had at Dinner, from whence well Luxuriated and Tobaccoed (as unto not a few of them) if they get home at any reaſonable time of the night they have done their Countrey ſervice, *that they have, and all is well*, and for the little that they know is like to continue. But it was not thought to have been enough in that our great Juſticiar, King *Edward* the firſt his Reign, when he Commiſſionated ſome of his Juſtices to Impannell Juries in every Ward of *London*, where it was found and returned upon their Oaths in *Anno* 3. of his Reign, *Quod Civitas London cum ſuis pertin. & cum Com. Middleſex tenetur in Capite de Domino Rege, pro certa Annua pentione, ſoluta ad Scaccarium Dominum Regis per Vicecom. London.*

In Banco de Quo Warranto & in Rotul. extract. de veteribus Civit. London pro Rege tempore E. 1.

Quod Dominus Radolphus de Berners Mil. ten. unum meſſuagium, duo molend. aquatic. cum pertin. in paroch. Sancti Botolphi extra Algate, quæ vocantur the Knights fee, *quod quidem Tenementum debet invenire Domino Regi unum ſervientem Armatum in uno Turretto Turris London, per* xl *dies tempore guerræ, ad proprios ſumptus & in ultima guerræ fecit defalc. &c.*

Dicunt etiam quod in Com. Midd. ſunt 7 Hundred. Wapp. & Tithing. & pertin. ad Civit. London, Palat. Weſtminſter, Keneton, Judaiſmum, & Turrim, & Civit. London in manu ſua.

Inquiſitio facta per 12 Jur. de Warda Anketili de Alneranzo Civis & Aldermanni London ſuper certis Articulis ex parte Domini Regis E. Anno ejuſdem tertio apud Sanctum Martinum magnum

magnum London eiſdem Jur. tradit.

In which *dicunt quod Civit. London & Turr. ejuſdem, Weſtm. Com. Midd. ſunt de Dominico Domini Regis, & quod reddant Domino Regi per Annum* 400*l*, *Item dicunt quod Wynton, Northampton, Southampton, Oxon, Briſtoll, Ebor. & al. Civitat. & Burg. quorum nomina ignorant, ſunt de Dominico Domini Regis & reddunt certam pecuniæ Summam annuatim, ſed quantum ignorant.*

Et quod Dominus Johannes quondam Rex Angliæ, pater Domini H. Regis, dedit Elianoræ tunc temporis Reginæ Angliæ Ripam Regiam in Civitate London, quæ fuit de Jure, & eſt de Dominico Domini Regis.

In which that great princes inquiſitions, and deſire of adminiſtring Juſtice to his people, It is not to paſs unobſerved, that amongſt all his *Quo Warranto's* what Liberties were Claimed in every part of the Nation, and every man that would enjoy them, driven not to conceal but Claim them, there was untill the 22 year of his Reign, when the diſuſed houſe of Commons, firſt erected in and by *Simon Montfort's* aforeſaid Rebellion, was again ordained to be elected with ſome modification, there was not any claim of Parliament Liberty, nor in any of our after Kings Reigns, nor is it at any time to be called a Liberty to be Crowded under that Denomination, for that it was but Tranſitory, not fixt to any perſon or Land, and was but *vaga & incerta*, that opinion of a would be Learned Lawyer and *Recorder* in the County of *Surry* reprehended openly by a Judge, that it was a privilege or liberty of Parliament, to uſe ſome Art by a Counterfeit Deed, or otherwiſe to make himſelf to be a Freeholder, with an Intent to be a Parliament-man.

Which Jury preſented Pourpreſtures in ſtopping up the way betwixt *Ludgate* and *Newgate*, and from *Newgate* to St *Nicolas Shambles*, and to and from ſeveral other places within the City, that *John de London* and *Gregory Rokeſly* received money of the King to pay his Debts, and retained a 3d part to their own uſe, and paid that which they did in bad money, that the Mayor, Shrieves and Aldermen of *London*, without the Conſent of the Community, did Tax the men of ſmall Eſtate and ſuffred the greater to eſcape, that after the Battell of *Eveſham* the City was fined 20000 Marks, which was leavyed of the Commonalty, 5 of the Citizens being excepted from pardon.

Et quod Dominus Rex habet in Dominico ſuo, quæ pertinet ad dignitatem Coronæ ſuæ de antiquo Dominico aquam Thameſis,

quæ

quæ incipit apud Youland ad introitum maris, verſus Orientem, ex utraq; parte uſq; ad pentem de Staines.

Cauſed Juries to be Impannelled and Preſentments made, *quæ & quot maneria, quæ eſſe ſolent in manibus Domini Regis, & de feod. Domini Regis, aut de antiquo Dominico, de firmis, Hundredi, Wapentach,* &c. *quot Hund. in Com. Middl. & de firmis antiquis,* &c. *of Malefactors, Aſſaults and Batteries felonies,* Eſcheates, *Lands aliened in mortmain, incroachments ſuper ſolum Regis, pourpræſtures and Stopping of ſtreets or Paſſages,* for building upon the Kings ground, one whereof being preſented by the Jury not to be *ad nocumentum* was arrented at 4*d per Annum.*

Who preſented *quod* Edmundus *de Cheyne tenuit priſonam de Fleta Serjeantiam de hæreditate Johannæ valet per Annum* 10*l. & per Serjeantiam Cuſtodiend. priſones Domini Regis, & Palatium Domini Regis apud Weſtm.* whereupon a *Sine die* was granted, but with a *Salvo Jure Regis,* &c.

Buildings *ſuper ſolum Regis* ordered, to be beaten down, when they were *ad nocumentum,* and inquiries made *de vinis vendit contra Aſſiſam,* purpreſtures in the paſſages of ſtreets ordered to be altered and laid open, and the tranſgreſſors *in miſericordia* and puniſhed, a Toll taken unjuſtly by the Warden of the *Fleet* upon *Fleet-bridge,* and between that and *Holborn-bridge* prohibited, and the Warden fined, Stalls, Shops and Galleries built, or Poſts and Walls erected *ſuper ſolum Regis in Civitate prædicta* commanded to be taken down, the Overſeer or Superviſor of Cloth in the City, preſented for taking too much Cuſtom of the Merchants, and other Money to conceal the Defects of Cloath, for which his Deputy being accuſed, *petit quod poſſit admitti ad finem in hac parte priuſquam Inquiſitio fiat, & admittitur per finem* 13 s. 4 d. *per pleg.*

It being preſented that the Cuſtomers or Collectors of the Cuſtoms for the Wool (then a very great tranſportable Commodity into Forreign parts) had taken a greater Cuſtom then the uſual *Cockett,* and as well of the *Engliſh* as Forreigners, *ad dampm. Domini Regis, & oppreſſionem & depauperationem totius populi;* they prayed to be admitted *ad finem cum Domino Rege,* and were accordingly; another was preſented for ſetting up 4 Poſts with Iron-Chains, *ante Oſtium Cellarii ſui,* and 2 of them croſs the Street, *Poſtea* the Defendent came and Pleaded *quod delevit predictos poſtes infra ſum. Itiner. Et Jur. hoc teſtantur, & quia prius non delevit in miſericordia;*

Peter

Peter Coſyn preſented for building a Porch of 16 foot long *in ſolo Regis*, by which the Street was ſtreightned, *Et (quod) nullo modo poſſunt ſtare, Ideo prec. fuit vic. quod proſternere fac. quicquid ſit ad nocumentum, Et def. in miſericordia quia de facto ſuo*; *William Coſyn* being preſented for raiſing an Impoſition or Toll in a ſtreet called *Coſyn*-ſtreet, through which the People fetched water from the River of *Thames*, *Et predictus Williel. non venit, Et fuit attach. per &c. Ideo in miſericordia, Et Jur. teſtantur quod predict. Will. levavit de novo 40d. per Anuum, Ideo Conſid. eſt quod Dominus Rex Recuperet 13 s. 4d. pro predict. 4. Annis verſus predict. Will. Et Idem Will. in miſericordia*; *Et predict. venella reman. Communis ſicut prius eſſe ſolebat, William de Dalby in miſericordia*, for that he having a freehold Tenement *in Civitate iſta* did not appear before the Juſtices Itinerant; A mudd-wall built upon a peice of ground before the Church of *St. Michael Baſſieſhaw in Civitate London* being preſented to be *ad nocumentum*, was ordered to be thrown down.

Walter de Herbeſton preſented in *Cripplegate* Ward *London* for erecting certain barrs *ſuper ſolum Regis*, who confeſſing it, was ordered to pull them down at his own Charge, and in *miſericordia quia prius non delevit.*

Richard de Bakere preſented for making a Well, the one half in his own ground, and the other *ſuper ſolum Regis. Roger de Bellinger* built 4 Stalls *ſuper ſolum Regis*, which he ſaid he was willing to pull down if they ſhould appear to be *ad nocumentum, & præc. eſt vic. quod deleantur ſi ſint ad nocumentum, & nichil de miſericordia quia non de facto prædicti Rogeri.* Another was preſented for ſetting up pales of Boards before his houſe in *Aldermanbury in London*, which not being denyed the Sheriff was ordered to pull them down, at the Charge of the Tranſgreſſor. Another for building a Chimney *ſuper ſolum Regis*, which was ordered to be pulled down at the charge of him that did it.

William de Pontefrayt for ſuffering his Tenant *Hugh Malyn* ſince deceaſed, to build *quendam gradum de Petra extra oſtium de Ten.* 3 foot long *ſuper Regiam viam*, and the Landlord himſelf about a Year before *fecit quandam feneſtram in eodem ten.* 2 foot and an half broad and 3 foot long, *appropriando ſibi de ſolo Regis ad nocumentnm, & non poteſt arrentari, Ideo prec. fuit vic. quod deleri fac.*

Robert de Roſham 10 years before *fec. unum oſtium* 4 foot long, *ad ingreſſum cujuſdam Cellarii in Chepe, extending* it ſelf into the Kings *High-Way, appropriendo ſibi de ſolo Domini*

mini Regis ad dampnum Domini Regis, & non poteſt arrentari Ideo prec. fuit vic. quod deleri fac.

The Dean and Chapter of *St Pauls London*, being preſented for taking 12 *s. per Annum* rent for an houſe in *Woodſtreet*, and Incroaching upon 20 *s.* rent out of another Tenement in *London*, with another rent of 70 *s. per Annum* out of another houſe, *pro ſuſtentatione Cantariæ in Eccleſia Sancti Pauli London in perpetuum*, who pleading that the King had Granted and confirmed unto them *omnia Legatu, Donationes eis prius facta de quibuſcunque terris, ten. ſeu redditibus in Civitate iſta ſeu ſuburb. ejuſdem per literas ſuas paten. prout plenius apparet inter placita in Warda de Farindon Irrotulat, Ideo idem Decanus & Capitl. inde ſine die, &c.*

Hugo de Waltham being preſented for building an houſe in the pariſh of *St. Peters in Cornhill ſuper ſolum Regis*, for which an *Anachoret* paid 12 *d. per Annum*, and incloſed another part thereof with Pales 48 foot in length and 10 foot in breadth *ſuper ſolum Regis*, and *John de Oxon* was the now Tenant thereof, who came and prayed that he might rent it at 12 *d. per Annum*, which was granted paying the King as much, the Jury finding it not to be *ad nocumentum*, &c.

Ric. le Taylor and others, preſented for ſelling in the Night, *veteres Pannos, Caligas & alia mercimonia in Deceptionem ementium, cum per antiquam Conſuetudinem uſitatum in Civitate, nullum mercatum ibi teneri debint, niſi poſt ortum ſolis uſq; ad horam nonam veſperarum die, Ideo prec. eſt vic. quod venire facias.* And thereupon the Offenders were prohibited to do ſo no more, and the *Mayor and Sheriffs* injoyned, *quod mercata de cætero non teneantur in London, poſt horam veſperarum pulſatam in Eccleſia Sancti Thomæ de Aconia in Civitate London, Et poſtea Proclamatum fuit*, (the Modern and too frequent impudent cheating Cuſtom of *falſelights*, purpoſely built in or near Shops in the ſtreet ſide not then held to be Godly, or to ſignify any more then to ſhew where a *Knave* dwelleth.)

Preſented ſome that had Money to pay the Kings Debts and paid but part of it retaining the reſidue to their own uſe.

And ſome of the Company of the *Weavers* in *London* for making an Order for exacting a greater rate then was due for their Works.

That *Richard de Roſham & al. fecerunt quandam Congregationem ad aulam plumbatam ſuper Cornhil.*

That *Johanues de Wengrave dum fuit Major Civitatis London*, took of the Vintners of *London* 50 *l. ut permitteret*

eos

eos vendere Lagonem Vini ad 5 d. *&* 6 d. *ubi vendidiſſe debuiſſent ad* 4 d. *tantum ad dampnum totius populi Civitatis, Ideo prec. fuit vic. quod venire fac.* And that the ſaid *John de Wengrave* in the taxing of the Subſidy in the City of *London, ad opus Domini Regis*, by imploying 2 Men in every Ward, *ad opus voluntatem ſuam*, did cauſe to be Leavyed *de mediocri populo Civitatis*, and when they were to leavy 200 *l. ad opus Domini Regis*, did leavy *de mediocri populo Civitatis* 300 *l. retinendo inde ad opus ſuum proprium* 100 *l.*

And that the ſaid *John Wengrave* and his Confederates being to collect in the City of *London* 1650 Marks, for a fine, impoſed for a treſpaſs done to the King, for breaking down a Wall *juxta Turrim London per quoſdam de Civitate prædicta*, retained to their own uſe 650 Marks, *in præjudicium Domini Regis & dampnum ejuſdem mediocris populi, Ideo prec. fuit vic. quod venire fac. eum, &c.*

Likewiſe that the ſaid *John Wingrave* whilſt he was *Mayor of London* did ſell 15 *dolia Vini in Groſſo, & ad Retalliam pretii cujuſlibet dolii* 3 *l. poſt Statutum, Ideo prec. fuit vic. quod venire fac. eum, & poſtea teſtatum eſt quod prædictus Johannes de Wingrave non eſt invent, &c. ſed quod diſtrinxerunt eum per Exit. quorundam ten. & ipſe non ven.* Whereupon the King by his Writ directed unto *Hervey de Stanton* one of the Juſtices Itinerant, Reciting the whole matter, commanded him to certify the ſaid preſentment to the *Treaſurer* and *Barons* of the Exchecquer, that they might according to Law take order therein.

Preſented that the *Dean and Chapter of St Pauls in London*, had incroached upon a large peice of ground near that Church, where the *Mayor* and City of *London* were accuſtomed to keep their *Folkmote*, and alſo Muſter and ſhew their Arms, being *ſolum Regis*, and other large peices of ground towards St. *Auguſtines-Gate*, unto which they pleading divers Grants and Charters of ſome of the Kings Royall Progenitors, the King by his Writ adjorned the proceſs and pleading therein to be heard and determined before himſelf, *ubicunq; fuit in Anglia in Quindena St. Michaelis prox.* commanded the *Dean and Chapter* there alſo to attend at the ſame time.

Johannes de Cumbuelle Conſtable of the *Tower* of *London*, was preſented for taking Toll, Cuſtom, and Victualls of ſuch as fiſh upon the River of *Thames* near unto the *Tower*, who pleaded that he took it for the Kings uſe, and had accompted for it in the Exchecquer.

Poſtea predictus Johannes receſſit in Contemptum Curiæ, Ideo

prec.

præc. fuit vic. quod diſtring. eum, & quod habeat corpus ejus coram Theſaur. & Baron de Scaccario in Quindena Sancti Michaelis ad audiendum Judicium.

Preſented *William de Broy* Arch-Deacon of *London* and others, for Extortions as Officers and Clerks in the City, who made *falſas & fictas Actiones & per minas, extorſerunt* divers great ſums of Mony, *& prec. fuit vic. quod venire fac.* who came and denied the Extortion but would not put themſelves upon the Jury, but the Juſtices declaring unto them that when they are charged in the Court for Treſpaſs againſt the King, *Et non vellent ſe ponere in Jur. Patriæ ad ipſos inde acquietand. per quod Jur. ſecundum Legem & Conſuetudinem Regni Capiend. finalis Exitus debet fieri*, they were otherwiſe to proceed.

Whereupon the Defendants not denying their offences, but refuſing to put themſelves upon the Jury, *ſubmiſerunt ſe gratiæ Domini Regis in ea parte, & ideo ad Judicium, & poſtea petunt dimitti per plevinam, & eis conceditur.*

And it was moreover preſented *ex parte Comunitat. London, quod omnes Tabernarii, vina vendentes ad retalliam in Civitate iſta*, had by Confederacy amongſt themſelves, ordained that they would not ſuffer any, that buy Wine of them, to ſee it drawn out of the Veſſel, *& ſic predicti Tabernarii Vina ſua vendunt in locis abſconditis & obſcuris, per quod plures Homines bibentes de Vinis illis aliquando gravitur infirmantur, & quidem ea occaſione moriuntur, Ideo prec. fuit vic. quod venire fac. omnes hujuſmodi Tabernarios, &c.*

Whereupon ſome of the Taverners their Drawers or *Vadlets*, as they were then called, came and not denying the fact, were fined 20 Marks to the King, *unde quilibet eorum pleg. alterius &c. Et injunctum eſt iis quod de cætero permittant vina Emere volentibus videre vinum & dolium de quo bibere debet, & quod Emptor videat ubi & quando vinum extrabatur de Dolio, & ſimiliter Proclamatum eſt quod Emptores Vinorum de cætero non impediantur ad videndum vina ſicut Injunctum fuit Tabernariis, &c.*

And Juries were alſo Impannelled to certify who were amerced *ſine rationabili cauſa & ultra quantitatem delicti, & non per pares, &c.*

And was ſo allways ready and willing in the Adminiſtration of his Juſtice, for the good of his Subjects, as in the 3 year of his Reign, he did cauſe an Act of Parliament to be made to puniſh frauds and deceits, in *Serjeants or Pleaders, in his Courts of Juſtice, under no leſs a Penalty and Puniſhment then a*

Year

Year and a Days Imprisonment, with a Fine and ranſome at the Kings pleaſure, and be never more after ſuffred to practiſe in any of the Kings Courts of Juſtice. And if it be an Officer of Fee his Office ſhall be taken into the Kings hands, and whether they be of the one kind of the Offenders or other, ſhall pay unto the Complainant the treble value of what they have received in like manner. 3. E. 1. ca. 39.

And thus that great King by the Teſtimony & Applauſe of the Age wherein he lived juſtly merited the Honour to be Inrolled in the Records of Time Hiſtory and Fame, for a moſt Prudent and valiant Prince, & in his perſonal valour much exceeding that of the exttaordinarily Wiſe *Solomon*, *Alexander* the great, *Julius Cæſar*, the politique *Hannibal*, the wary *Fabius*, or his valorous and daring great Uncle *Richard* the firſt of that name King of *England*, rendred himſelf equal to all the great Kings and Captains, that lived before or after him.

And might have thought himſelf and his Succeſſors to have been in ſome condition of ſafety when the Writ or Election of Members in the Houſe of Commons in Parliament were to be only by his own Writs and Authority, and the Sheriffs who were not the Parliament Officers but the Kings, and by the Law to be ſworn unto him not unto both or either of the Houſes of Parliament, and were ſtrictly to obſerve and execute his Writs and Mandates.

SECT. XIX.

That the Sheriffs are by the Tenor and Command of the Writs for the Elections of the Knights of the Shires and Burgeſſes of the Parliament Cities and Burrough-Towns, the only Judges under the King, Who are fit and unfit to be Members in the Houſe of Commons in Parliament, and that the Freeholders and Burgeſſes more then by a Juſt and Impartial Aſſent, and Information who were the Fitteſt were not to be the Electors.

FOr the Commiſſions or Mandates of Inferiour Judges, Magiſtrates or Courts, or their power and authorities over executed, and further then the true Intentions and proper Significations of the words therein not overſtrained or racked, or not as they ought to be duly executed, are in our and the Laws of moſt of the Nations of the World, accounted to be void & liable to puniſhment.

Cokes 4th Inſtitutes *ca.*55. & *tit. Parliament. fo.*6.

And it ought not to Eſcape our or any other mens obſervations that the County Court of a Sheriff is as Sr *Edward Coke* ſaith no *Court of Record*, and is in it ſelf of ſo *Petit* a Conſideration as it holdeth no Plea of any Debt or Damage to the value of Forty Shilings, or above, or of any treſpaſs *vi & armis*, becauſe a fine is thereby due to the King, is Called the Sheriffs County Court, and the Stile of it is *Curia Vicecomitibus*, the Writs for the Summoning of the Commons or Barons of the *Cinque*-Ports, who have been (ſince 49. *H.* 3.) and the allowance thereof in 22. *E.* 1. after a long diſcontinuance accompted as Burgeſſes are directed to the Warden or Guardian of the *Cinque ports*, as they are to the Sheriffs of every County for the Choice and Election of Knights, Citizens, and Burgeſſes.

Elſiugs *ancient and preſent manner of holding Parliaments. ca.*1.57.

And the Sheriffs authority, as to that particular affair, is ſo Compriſed in the Writs, as they are not to ſwerve or depart from the tenor or purport thereof, which are made by the *Chancellor* of the King, or Keeper of the Great Seal of *England*,& ſometimes by a Warrant under the King's own hand, as in the fifth year of the Reign of King *Edward* the 3d in the words following, *viz.*

Rex Vicecomiti Eborum Salutem Quia propter quædam magna & ardua negotia nos & ducatum noſtrum Aquitaniæ, ac alias terras noſtras in partibus trauſmarinis, pro quibus ad eaſdem partes nuper Solemnes nuntios noſtros deſtinaverimus Contingentiq; in ultimo Parliamento noſtro a quibus certis Cauſis terminari non potuerint, Parliamentum noſtrum apud Weſtmonaſterium die Lunæ in Craſtino quindeux Paſchæ, proxime futuræ teneri, & cum Prælatis, Magnatibus & proceribus dicti Regni ordinavimus habere Colloquium & tractatum tibi præcipimus firmiter Injungentes quod de dicto Comitatu duos milites, & de qualibet Civitate Comitatus illius duos Cives, & de qualibet Burgo duos Burgenſes, de diſcretioribus, & ad Laborandum potentioribus eligi, & eos ad dictum diem & Locum venire faciatis, ita quod milites plenam & ſufficientem poteſtatem pro ſe & Commnnitate Comitatus prædicti, & dicti Cives & Burgenſes pro ſe & Communitate Civitatum & Burgorum diviſim, ab ipſis habeant, ad faciendum & Conſentiendum iis quæ tunc de Communi Concilio (favente Deo) ordinari Contigerint ſuper negotiis antedictis, ita quod pro defectu hujuſmodi poteſtatis dicta negotia ineffecta non remaneant quovis modo, & habeas ibi nominia prædictorum militum, Civium & Burgenſium, & hoc bre, & hoc ſicut nos & honorem noſtrum, & tranquilitatem & quietem dicti Regni diligitis, nullatenus omittatis

omittatis &c. T. Anno 5. *E.* 3. 17. *Febr. per ipſum Regem.*

Wherein none of the Spirituall and Temporal Barons or their Tenants for the Land anciently belonging unto their Baronies, or the Clergy, having no Lay Fee Tenants of the King, and Ancient demeſne, though many of thoſe kind of Tenants do take upon them to do it, Abbots and Priors, Monks or Fryers, which latter are to be accompted as dead Perſons in Law, Copy-holders and Widdows are neither to be Electors or Elected, nor Perſons attainted of Felony or Treaſon Outlawed, or Priſoners in execution for Debt, and the Sheriffs in their returns or Indentures are not to return, as they did ſometimes, or do now, that the Freeholders *elegerunt*, but that the Sheriff *elegi fecit*, as was done in 8. *E.* 2. by a Sheriff of *Roteland quod Elegi feci in pleno Comitatu per Communitatem totius Communitatis illius duos milites de diſcretioribus.*

Cromptous *Juriſdiction of Courts.* 11.

In a return of a Writ of Summons in 18. *E.* 3. *Drogo de Barentine* the Sheriff of *Oxford* and *Berkſhire* returned, that *Richardum de Vere militem, & Johannen de Croxford de Com. Oxon, Richardum de Walden & Johannem de Vachell de Com. Berk. de aſſenſu & arbitrio hominum eorundum Com. nominatos premuniri feci & firmiter injunxi quod ſint ad diem Locum &c.* And a Sheriff of *Leiceſter* and *Warwickſhire* mentioning the day when the Writ of Summons was delivered unto him, ſaith it was *per manus cujuſdam exteanei de Garderoba Domini Regis qui nomen ſuum ſibi nonnominavit nec billam expectavit*, and that he had thereupon choſen *Robert de Wileby Miles de Com. Leic. & qui manucapt. fuit per Johannem Clerke & Johannem Ruſſell Johannem Peche mil. de Com. War. per manucapt. Johannem Walkere, Willielmo peniter.*

Pryns *brevia Parliamentaria redi viva.* 146. & 148.

For although it hath been ſaid, and ſometime taken for a Rule in our Laws, as well as in others in ſome caſes, that *qui facit peo alium facit per ſe*, yet ſuch truſts as thoſe are as little transferrable as that of a MemberShip of the houſe of Commons in Parliament to one that was never elected, and the Sheriffs are not to truſt either Ignorant or Factious men, by packing and juggling one with another to chooſe Boys or Youths under the age of 21. of which ſort as Mr *Pryn* hath publiquely declared there have been above Twenty at a time in the Houſe of Commons in ſome of our late unhappy Parliaments; or Debauches, Hereticks, or *Anti-Trinitarians* as one was in one of *Oliver Cromwells* mock-Parliaments and ejected for it, or an Atheiſt; in regard that beſides ſome particular clauſes of their Writs mentioned, it is allways expreſſed that the buſineſs

neſs for which the Parliament was likewiſe to be Aſſembled was *pro defenſione Regni & Eccleſiæ Anglicanæ* which do manifeſtly declare the Intention of the King and his Writs to be, that the Madheaded people led by Drink, Ignorance, Intereſt, Bribes, Fear, or Flattery are not to be ſuffered by Sheriffs to chuſe Papiſts Fanatiques or Rigid Presbyterians, the greateſt or moſt Inveterate Enemies to the Church and Kingdom, or the Sons of ſuch as Sate in the Horrid Convention that murdered their King, and when they ſhould make their Election *de prudentioribus & Diſcretioribus*, let Fools Knaves and Drunkards chuſe one another; for howſoever the Houſe of Commons have been heretofore filled with ſome, or moulded otherwiſe then they ſhould be, yet the Intention of the Writs was never ro Introduce ſuch Fiery Tempers or *Granadiers* as ſhould do what they Could to Fire all within and without, and Elect all the new-fangled untryed Innovations they Can, and encourage others thereunto, before they know how to Underſtand them; make Remonſtrances and *Harangues*, and print and publiſh them to the people againſt the Government, Fundamental Laws, and the juſt rights of their Sovereign, and their Succeſſion the former and later, of which the Politiques of former Ages and Queen *Elizabeths* bleſſed Reign, would never think fit to be there diſputed, and the percloſe or later part of thoſe Writs, that one part of the Indentures ſhould be retorned to the King in his Chancery may evidence that the Intention of thoſe Writs and of him that gave them their breath, and authority, was, that the approbation and allowance of the Elections ſhould ultimately reſide in the Sovereign, which gave occaſion to *Oliver Cromwell* in his Uſurped Kingſhip, under the Counterfeit title of Protector of his Fellow-Rebells in an *Inſtrument* of his own making, to reſerve to himſelf and his Privy Councell the power of allowing and diſallowing ſuch as ſhould be Choſen to be Members of the Houſe of Commons in Parliament.

For by Law it is intended that the King ſhould have the approbation of the men elected, and therefore to that end one pair of the Indentures are to be retorned to the Clark of the Crown in *Chancery* & our Kings in their Parliaments that Succeeded the 21th Year of the Reign of King *Edward* the firſt, as well as the tenor & purport of the Writs, did provide that the Sheriffs who are the Kings Officers & not the Peoples, ſhould according to the Kings Writs be Judges of the fitneſs, or unfitneſs of the perſons Elected or to be Elected, and did therefore to prevent the defaults of due Elections, ordain Penalties

nalties to be laid upon them for making falſe retorns or doing wrong therein and give directions unto them how in many things to manage the affairs in ſuch Elections, as in 7. *H.* 4. 15. where it was Complained that the *Sheriffs made the Elections according to affections or otherwiſe*, 11. H. 4. that *undue Elections ſhould be enquired of by Juſtices of Aſſize, who ſhould have power to enquire of falſe retornes made, and to examine and Fine the Sheriffs making default at* 100 *l. and the Knights unduly retorned were to loſe their Wages of old time accuſtomed*; and by an Act of Parliament made in the 6th year of the Reign of King *Henry* the 6th, the *ſaid Sheriffs and Knights were to be admitted to their anſwers, and traverſe to ſuch enqueſts taken* (which muſt be underſtood to be either in the Kings Court of *Chancery* or *Kings-Bench*, where the King himſelf is ſuppoſed by Law to be preſent) *and the Knights ſhould not be endamaged to the King, his Heirs and Succeſſors by any ſuch enqueſt untill they ſhould thereof be Convict according to the form of the Statute of the* 1. of H. 5. 1. *Knights and Burgeſſes ſhould be Choſen of ſuch as be reſiant* 8. *H.* 6. c. 7. *The People that were to Choſe* (or rather to aſſent) *were to have* 40 *s. per Annum Freehold*, and none to *be Choſen Knights of the Shires* that have not above, *and the Sheriffs were Impowered to examine upon Oath how much every one in giving his Vote or Conſent to the Election might expend by the Year.*

Dalton officium Vicecomitum. 427.

And by the Statute of 23. *H.* 6. 15. *the Sheriffs is to make his Precepts to the Mayor or Bayliff of Cities and Parliament Burgeſs Towns, who were to take Care of due Elections and retorne the Indentures to the Sheriffs and the Penalties given to the King, and they that ſhould be miſchoſen and Sit in Parliament are to forfeit* 100 l. *to the King, and as much to the Party duly Elected, or to them that will Sue for the ſame, wherein no wager of Law or Eſſoyne is to be allowed, but ſuch proceſs as are to be awarded, as in treſpaſs at the Common* Law: and *Brooker* a Sheriff of *Wiltſhire* was in the Reign of Queen *Elizabeth*, proſecuted in the Court of *Starr-Chamber* upon an Information for perjury at the Queens Suit for a falſe Retorne made of *Sr John Thyn* to be Knight of the Shire for the ſaid County in Parliament, whereas in truth *Penruddock* was Choſen by the greater number of the Freeholders in the ſaid County in deceit of the County and of the whole Realm.

Cokes 4 *pars Inſtituts tit. parliament.*

Dier fo. 60.

And the Sheriffs and the Chief Magiſtrates of every City and Burgeſs town, every Knight of the Shire and Burgeſs of Parliament ought by the mandate and tenor of the Writs,

and as the Indentures which are not made betwixt the *Electors* and the *Elected*, but betwixt the *Electors* and the *Sheriff* do ordain to take Care that the Knights ſhould have *plenam & ſufficientem poteſtatem pro ſe & Comunitate Comitatus*, and the Burgeſſes Choſen for every City and Burgeſs town: *ad faciend. & Conſentiend, &c.* which in a Juſt formality of Law ought to be ſignified to the King in his *Chancery* by their Indentures as an Inſtrument or Deed of *procuration*, or letter of Attorney which the after Clauſe *Ita pro defatu poteſtatis* doth Intimate to be a thing ſo neceſſary as without it they might be rejected, if it ſhould be Inſiſted upon, for ſurely the King that by his Writ for the Election gives the power and licenſe to his Sheriffs to Elect Knights and Burgeſſes to come unto the Parliament, is to have ſo much Controll and Power over it, as to examine whether they were duly Elected, and upon occaſions of death, undue Elections, or other Incapacities to Cauſe new Elections to be made, wherein although the Houſe of Commons have in this our Century, or an hundred years laſt paſt, been willing to ſave the King and his Miniſters of State a labour, and upon the death or removall of a Member have uſually ſent their Warrant or Certificate to the Lord Chancellor or Keeper of the Great Seal of *England*, or the Clark of the Crown for the Election of others; the learned Lord Chancellor or Keeper *Egerton*, ſcrupling ſuch a kind of proceeding, wiſhed it might be otherwiſe, and the Preſident of *Simon de Monforts* Rebellious firſt inſtitution of an Houſe of Commons, in his new unexampled kind of Parliament in the 49th year of the Reign of King *Henry* the 3, cannot be ſo racked or ſtrained, as to Warrant any ſuch proceeding, for even then, when he was thoſe Rebells priſoner for an Year and a Quarter, they could not tell how to adventure upon ſuch a kind of new and ſelf authority; yet it hath been by the permiſſion and Indulgence of our Princes, who have thereby too much given them the opportunity and advantage of making one evil action to be a Cuſtom, for all that have been but a little acquainted with our Laws and Records may without derogation to that part of the honourable Court of Parliament, of which it hath been well obſerved and ſaid in the Earl of *Leiceſters* Caſe, *No man ought to Speak or think diſhonourably* of them, believe that it is a matter particularly and eſpecially only appropriate and belonging to the King and his Supreme authority and dignity, and the Elections are ſo entruſted by the King to the care of the Sheriffs & his Officers,

Plowdens *Comment in the Caſe of the Earl of* Leiceſter.

as

as in the Choice or election of *Coroners* or *Verdurers de aſſenſu Comitatus* by the aſſent or good likeing of the Common People of the County, there is in the Concluſion of the Writ a Speciall Clauſe to Certifie the name of whom they had Choſen, which if the King were not therein to give his allowance or refuſall, would be altogether Inſignificant and to no Purpoſe. *Regiſter of Writs. 177.*

And by his Sovereign power notwithſtanding his approbation in ſuch an Election it was never denyed to be lawfull and for the weal Publique, that the King upon Information that the Coroner ſo Choſen was *aliis detentus negotiis*, and could not attend the duty and employment of that office, or was Surprized with a dead palſie, or had not Laws Sufficient in the County, or lived in the further part thereof ſo that he could not conveniently execute the ſaid office, or was elected Sheriff or a Verdurer in a forreſt, or that *Quidam* R. who was elected by the Sheriff *de aſſenſu ejuſdem Comitatus*, was not a Knight, as the ſtatutes concerning the making or electing of Coroners directed, and had not 5*l. per Annum* Land of Freehold, yet the Sheriff had elected him into that office, to Command the Sheriff to chuſe another in his Place *de aſſenſu Comitatus qui melius Scire & poſſit ad illus intendere, & quod nomen ejus Scire faceret* &c. or when a Verdurer was *adeo languidus & ſemo confectus* as he could not attend the execution of the office, another ſhould be elected in his place *de aſſenſu Comitatus, & nomen ejus ſcire faceret*. *Regiſter of Writs.*

And it is not like to be any diſparagement to the Judgement or knowledge of any man of the Law to acknowledge that the Writ of *Conge de Eſlire* granted by the King to a Pryor and Covent to elect an Abbot, or Dean and Chapter of a Dioceſs to elect a Biſhop, when the King hath before hand nominated the man by an eſpeciall Clauſe takes care that he be *regno & Regi utilis & fidelis*, and that after his election and the formality of the election by the Dean and Chapter diſpatched, there is a Writ *de Regio aſſenſu to Confirm* that election, followed by another to the Eſcheator to reſtore unto him the temporalities in the form following. Fitz-Herberts *nat. bre.* 170. *E.* 1. 3. *Articuli Cle.* 2. & 25. *Regiſter of Writs in the Caſe of an Abbot.* 294.

Rex dilecto & fideli ſuo J. Juſticiario ſuo Hiberniæ ſalutem, Cum dilecti nobis in Chriſto Decanus & Capitulum Eccleſiæ de B. vacante nuper Eccleſia ſua prædicta per mortem bonæ memoriæ Lucæ nuper Epiſcopi loci illius dilectum nobis in Chriſto M. J. Decanum Eccleſiæ predictæ in ſuum Epiſcopum elegerunt & paſtorem, & nobis per ſuas patentes literas: Supplicaverunt, ut Electioni Regium aſſenſum adhibere dignaremur:

Nos

Nos licet idem Decanus & Capitulum prius a nobis eligendi licentiam non poſtuleverint, ut eſt moris, volentes tamen eis hac vice gratiam facere ſpecialem, eidem Electioni Regium aſſenſum Duxerimus adhibendum, nolentes quod, quamvis ipſi hujuſmodi licentiam minime poſtulaverunt, moleſtentur in aliquo ſeu graventer, volentes inſuper eidem Electo, ut ipſius parcntur laboribus & expenſis, gratiam facere uberiorem vobis dedimus poteſtatem, quod ſi Contingat Electionem hujuſmodi per loci Metropolitanum Canonicum Confirmari, & vobis inde per literas patentes loci ipſius Metropolitam, nobis inde directas conſtiterit, tunc fidelitatem ipſius Electi nobis debitam in hoc parte noſtro nomine recipiatis, & ei temporalia Epiſcopatus illius, prout moris eſt, reſtitui faciatis vice noſtra receptis prius ab Epiſcopo Electo literis ſuis factis Sigillo ſuo, & ſigillo Capituli ſui Signatis, quod gratia noſtra, quam eidem Electo ad præſens ex mera liberalitate noſtra fecimus nobis vel hæredibus noſtris non Cedat in præjudicium, &c. T. &c.

And may remember that when the Papall Clergy were Culminated in their higheſt *Zenith* under the domineering power and Inſolency of the Popes their Incouragers and Protectors, and ſo high as upon the vacancy of Biſhopricks or other dignified Eccleſiaſtick preferments they that ſought for thoſe places would haſten to *Rome*, and get *Bulls* of inveſtiture from the Pope upon the Kings unwilling recommendation, which though a politick fear had made King *Henry* the 8. for a Time to Condiſcend unto, yet he was Carefull to make the party ſo *preferred to appear at his return before him, either in perſon, or by proxy, and renounce every Clauſe in the Popes Letters or Bulls that might prove derogatory to his Crown and Prerogative or the Law of the Land, and Swear Fealty, and Allegeance unto him, and thereupon Writs were ordered to be made out of the Chancery for a new Election, if none had been before made by the Dean* and Chapter of the Dioceſs, or afterwards for the Kings allowance of an Election to be made by the Dean and Chapter and a reſtitution thereupon of the Temporalities.

Burnetts *hiſt. of the reformation of the Church of* England. 1. *part.* 11.

Ro. Clauſ. 4. *E.* 3.

And *Fitz-Herbert* a learned Judge hath informed us that if a Dean and Chapter ſhould elect a Biſhop without the Kings aſſent, and after make a Certificate thereof to the King, he may aſſent thereunto or refuſe to do it, if he pleaſe, and if he do aſſent thereunto a ſpeciall writ is to be made to ſome Perſon to take his Fealty and to reſtore unto him his Temporalities in the form aforeſaid.

Fitz-Herberts *natura brevium*, 170.

And our Kings have not only done it in the Election of

Coroners

Coroners and *Verdurers*, but in matters of an higher nature *viz.* the Election of Members of the Commons in Parliament in the Caſe of Sr *Thomas Camois Banneret* (which ſaith *Mr Elſing*) did not, as a *Baron*, antiently uſe to ſerve as a Member in the houſe of Commons in Parliament, as appeareth by the Kings writ directed to the Sheriff of *Surrey* for a new Election in the Stead of the ſaid *Sr Thomas Camois*, wherein the reaſon is expreſſed in theſe words: *Nos animadvertentes quod hujuſmodi Banneretti ante hæc tempora in milites Comitatus ratione alicujus Parliamenti minime conſueverunt eligi.*

Elſings *ancient & preſent manner of holding Parliaments in* England. *Ca.* 1. 65. 66.

Ro. Claus. 7. R. 2. *in dorſo. m.* 32.

And was afterwards as a Baron ſummoned into the Houſe of Peers in Parliament, and the Kings ſervants have likewiſe had exemtions, as when *James Barners* was diſcharged *quia de retinentia Regis, familiaris & unus militum Cameræ Regis.*

Ro. Claus. 7. R. 2. 28.

The ſervants of the Queen and Prince enjoying alſo the like Priviledges.

For the ſame year there appeareth to have been an exemtion and diſcharge of *Thomas Morvill*, *Quia eſt de retinentia Chariſſimæ Dominæ & matris noſtræ Johannæ Principiſſæ Walliæ.*

A Verdurer being Choſen in a forreſt beyond *Trent*, and the King upon a Suggeſtion made in *Chancery*, that he had not Lands and Tenements Sufficient within the Limits of the Forreſt, nor was reſident therein, having Cauſed another *de aſſenſu Comitatus* to be elected, did upon better Information by the Juſtice of that Forreſt, that he had Lands and Tenements ſufficient, and was fit for the place, ſuperſede the later Writ, and Commanded that he that was formerly elected ſhould be permitted to execute the ſaid Office.

Regiſter of Writs 177. & 178.

In the firſt year of the Reign of King *Edward* the 1ſt the King being Informed that one *Matteville* having been elected Coroner of *Eſſex*, *de aſſenſu Comitatus officium prædictum explere non potuit*, ſent his Writ to the Sheriff of *Eſſex* to elect *per aſſenſum Comitatus*, one that ſhould be able to execute that office, with a Command to Certifie the name of the party to be ſo elected, which a King that is *ſui Juris* and not governed by thoſe he ſhould govern, might ſurely better do, then a private man who is never denyed the refuſall of one elected, that is not fit for the ends and purpoſes for which he was Choſen; as if a Carpenter ſhould by a miſtake of a friend or ſervant, be hired or employed to do the work or buſineſs of a *Farrier*; or a *Farrier* of an *Apothecary*.

1. E. 1. *Ro. Claus.* 1. *pars.*

And it ſhould be no otherwiſe, when all the Laws of the World where right reaſon and morality have any Influence,

or any thing to do, have ordained and allowed a retorn or attempt to be given of Writs, Proces, Mandates, or Precepts, well or evill executed, unto thoſe that had authority to grant them, and how they had been obſerved and obeyed; which was the only reaſon, end and deſign, of ſuch retornes and attempts to be given thereof.

In the yearly nomination and appointment of Sheriffs of the Counties of *England* and *Wales*, the Judges of the ſeverall Circuits do elect ſix whom they think fit to be Sheriffs for every County, which upon Conſideration had by the Lord Chancellor, or Keeper of the great ſeal of *England*, *Lord Treaſurer*, diverſe of the Lords of the Kings Privy-Counſell, ſome Officers of his Houſehold, and the aforeſaid Juſtices, being reduced to three for every County, their names are to be preſented to the King, who Chooſeth One for every County, who is afterwards Sworn and made Sheriffs by his Letters-Patents (the former being diſcharged) and not ſeldom upon better Information given to the King, altered, and another named by him, the Mayor and Sheriffs of *London*, and the Mayor of *Oxford* being elected, according to their Charters, are to be Yearly preſented and Sworn before his Barons of the Exchecquer, before they can Execute or Intermeddle in their Offices, and a Sheriff hath ſome hundred years ago been amerced and *in miſericordia quia retornavit & elegit alios quam milites in brevi de Aſſiza.*

And with the ſame reaſon, and rule of Juſtice, it hath been done in the undue and Illegall Elections of ſome Members of the Houſe of Commons in Parliament, upon Complaint made, by remedies provided in the 36*th* year of the Reign of King *Edward* the third, as may be evidenced by the view and conſideration of the Records enſuing in theſe words, *viz*: *Rex Vicecomiti Lanc. ſalutem, quia ſuper Electione facta de militibus pro Communitate Com. prædict. pro ultimo Parliamento noſtro in Com. prædict. venientibus maxima alteratio facta exiſtit, nos ea de Cauſa volentes ſuper electione prædicta plenius certiorari tibi præcipimus quod habita in pleno Com. tuo ſuper electione prædict. Cum militibus & aliis probis hominibus de Communitate dict. Com. de Liberatione & Informatione diligentibus utrum viz. Edwardus Laurence & Mathæus de Riſheton qui in brevi noſtro de Parliamento prædicto tibi directo retornati fuerunt pro militibus dicti Com. electi fuerint an alii, & ſi per deliberationem & Informationem hujuſmodi inveneris ipſos de Communi aſſenſu totius Com. pro militibus dicti Com. electos fuiſſe tunc habere facias*

Claus 36. E. 3. *m.* 2. & 3. *in dorſo.*

facias eiſdem Edwardo & Matheo decem & octo libras & duodecem Solid. pro expenſis ſuis veniendi ad Parliamentum prædict. ibidem morando, & ex inde ad propria redeundo, viz. pro quadraginta & ſeptem diebus utroq; prædictorum Edwardi & Laurentii Capiente per diem quatuor ſolidos, & ſi alii pro militibus ejuſdem Com. electi fuerint tunc nos de nominibus eorum ſub ſigillo tuo in Cancellaria noſtra reddas certiores hoc breve nobis remittens Teſte Rege Decimo Septimo die Novembris.

per ipſum Regem.

But it ſeems that took no effect, for Mr *Pryn* in his Marginall note ſaith, that they made no retorn as they ought to have done (ſo early did the deſign of a factious popularity to provide for themſelves, begin to take root, by the calling of an intended Elected part of the Common People of *England* into the great Councell thereof) as the Tenor of the Subjoyned Writ will manifeſt in the form enſuing, *viz. Rex dilectis & fidelibus ſuis Godfr. Foliambe & ſociis ſuis Cuſtodibus pacis noſtræ in Com. Lancaſtr. Salutem cum nuper pro eo quod ſuper Electionem (recitando uſq; redderet nobis Certiores) ac jam intellexerimus quod prædicti Edwardus & Laurentius qui locum tenentes dict. vic. exiſtunt & retornum brevium noſtrorum Com. prædict. faciunt breve noſtrum prædictum penes ſe retinent & executionem aliquam inde hactenus facere non curarunt, & nihilominus vadia illa indies levari faciant in noſtri deceptionem manifeſtam nos volentes hujuſmodi deceptioni obviare vobis mandamus quod prox. Seſſione veſtra vocatis Coram vobis militibus & allis probis hominibus ejuſdem Com. & aliis quos noveritis evocando diligentem Informationem, & inquiſitionem ſuper præmiſſis capiatis & de eo quod in hac parte inveneritis nos in Cancellaria noſtra ſub Sigillis veſtris aut alicujus veſtrum diſtincte & aperte ſine dilatione reddatis Certiores hoc breve nobis remittentes T. R. apud Weſtm.*

per ipſum Regem.

Et mandatum eſt vic. Lanc. quod levationi dictorum vadiorum Superſedeat quouſq; aliud inde de Rege habuerit in mandatis T. ut ſupra.

per ipſum Regem.

Upon which *Mr Pryn* obſerveth, that the King in that age, not the Houſe of Commons, examined and determined all diſputable and undue Elections Complained of, and ordered that the Knights whoſe elections were unduly made, ſhould not receive their wages or expences, untill the Legality of their elections were examined; and that the King may cauſe the Elections to be examined, by ſpeciall Writts to the Sheriffs or

Pryns 4 part Regiſt. of Parliamentary Writs 259. 260. & 261.

or Juſtices of the Peace, in his default, to Enquire and Certify the legality of their elections by the Teſtimony of their Electors or Aſſenters, out of the whole County, and untill full Examination Superſede the Levying of their Wages; and in his Plea for the Houſe of Lords and Peers, ſaith, that the Statute made in the 8th year of the Reign of King *Henry* the 4th, and the 11th of King *Henry* the *6th* upon the Petitions and Complaint of the Commons in Parliament to the King and Lords, which Inflicted Penalties upon the Sheriffs, for making undue Elections and returns, which formerly were Arbitrary, at the diſcretion of the King, and to be Tryed (not by the Commons alone without Oath upon Information as now) but by the Juſtices Aſſigned to take Aſſizes, and that by enqueſt and due examination therein, if the Sheriff be found Guilty, he ſhall forfeit *one hundred pounds* to the King; and the Knights unduly retorned, ſhall loſe their Wages (not to be turned out, ſaith Mr *Pryn*, by a Committee for Privileges of the Houſe of Commons) and that the Statutes of 1. *H.*5. *ca.*1. 6. *H. ca.*4. 8. *H.*6. *ca.*7. 22. *H* 6. *ca.*15. touching the Election of Knights, Citizens, and Burgeſſes to Parliament, do not alter the Law, or Impower the Houſe of Commons to determine the Legality of any Elections, but leave them as before to the King, by the advice of the Lords, to redreſs, as theſe Law-books, *viz.* *Dier* 113. 168. *Plowden* 118. to 131. *Old Book of Entries* 446. 447. have reſolved, and are not to follow any late Arbitrary Precedents, but the ancient uſage and Law of our Parliaments, and ſolid reaſon, which will not Juſtify thoſe late Innovations or extravagancies; for when men are, (ſaith the Learned *Sr Robort Filmer*) Aſſembled by an humane power, the authority that doth aſſemble them, Can alſo limit and direct the execution of that Power.

Idem in his Plea for the Houſe of Lords 394. & 395.

Sir Robert Filmers *Patriarcha or the natural power of Kings.p.*60.

SECT. XX.

Of the ſmall Numbers of Knights of the Shires and Burgeſſes, which were Elected, and came in the Reign of King Edward *the firſt, upon his aforeſaid Writs of Election; and how their Numbers now amounting unto very many more, were after increaſed by the corruption of Sheriffs, and the ambition of ſuch as deſired to be Elected.*

FOr Mr. *Pryn* in his indefatigable and moſt exact ſearches of the Summons and Elections of Members of the Houſe of

of Commons in Parliament and the return of the Sheriff thereupon (which he himself as well as others might have then thought unneceſſary and ſuperfluous yet are now of great uſe for the diſcovery of long hidden truths) hath in all the Reigns of King *Edward* 1. *Edward* the 2. *Edward* the 3. *Richard* 2. *Henry* 4. King *H.* 5. *&* 6. and *Edward* the 4th found no more then 170. Boroughs, Cities, and Ports either Summoned by Sheriffs or their precepts or Writs to elect or return or actually electing, returning Knights, Citizens, Burgeſſes, and Barons of the Cinque ports to attend in Parliament, that of thoſe 170. *Glaſtonbury* in *Somerſetſhire*, *Overton* in *Hantſhire*, *St Edmondsbury* in *Suffolk*, *Hoden* and *Richmond* in *Yorkſhire* had only one precept iſſued unto them; *Odiham* 2 precepts, *Alton* and *Baſingſtake* in *Hantſhire* 4 precepts to elect and ſend Burgeſſes to Parliament, upon neither of which they returned any Burgeſſes, as the Sheriffes returns of *ballivi libertatis nullum dederunt reſponſum*, or *nihil inde fecerunt* will atteſt, whereupon they never had any more precepts of that nature ſent unto them before the end of King *Edward* 4's Reign, *Chriſtchurch* only excepted, which of late Years hath elected and returned Burgeſſes. So that in truth 20 of thoſe 170. Namely *Newbury* in *Barkſhire*, *Freminton*, *Modbury*, *South Molton* in *Devonſhire*, *Bromyard*, *Ledbury*, *Ros* in *Herefordſhire*, *Dunſter*, *Langeport*, *Monteacute*, *Stoke*, *Curſey*, *Matchet*, *Ware* in *Somerſetſhire*, *Alesford* in the County of *Southamton*, *Oreford* in *Suffolk*, *Gatton* in *Surrey*, *Alverton*, *Malton*, and *Pontefract* in *Yorkſhire*, elected and returned Burgeſſes but once, for one ſingle Parliament and no more; *Mere* in *Wiltſhire*, and *Rippon* in *Yorkſhire*, upon two ſeveral precepts made only one election.

Prvn's *brevis Parliamentaria rediviva.* 223.224.225.226.227.[illegible]

Five more of thoſe antient Boroughs, as *Lidford* in *Cornewall*, *Bradneſham*, *Okehamtam* in *Devonſhire*, *Andover* in *Hampſhire*, *Woodſtoke* in *Oxfordſhire*, and that 3 of 5 Severall Precepts the Sheriffs returned *quod ballivi nullum dederunt reſponſum*; *Farneham* in *Surrey*, *Grantham* in *Lincolnſhire*, and *Beverley* in *Yorkſhire*, upon five precepts did but twice elect during the Reigns of the aforeſaid Kings; and 4 more, to wit, *Cheping-Norton*, and *Dodington* in *Oxfordſhire*, *Mulliborne* port in *Somerſetſhiee*, and *Coventry* in *Warwickſhire*, made in all the times aforeſaid but 3 elections.

Poole in *Dorſetſhire*, *Webley* in *Herefordſhire*, *Witney* in *Oxfordſhire*, and *Aixbrugh* in *Somerſetſhire*, upon 5 precepts had but 4 elections, and returns in all thoſe Reigns.

St Albans in *Hartfordſhire*, *Kingſton* upon *Thames* in *Surrey*,

rey, *Wich* in the County of *Wigorn*, and *Heytesbury* in *Wiltſhire*, made in all that time but 5 returns and elections of Burgeſſes.

Five others, viz. *Honyton* and *Plymouth* in *Devonſhire*, *Chard* in *Somerſetſhire*, *Seaford* in *Suſſex*, and *Wotton Baſſet* in *Wiltſhire*, bnt 7. *Preſton* in *Lancaſhire*, *Stamford* in *Lincolnſhire*, *Hyndon* and *Weſtbury* in *Wiltſhire*, but 6. *Stortford* in *Hartfordſhire*, only 8. and *Lancaſter* 13. during the Reigns of the aforeſaid Kings.

Some of them having long intervals and diſcontinuances, for *Aſhperton* in *Devonſhire* had it's firſt election in 26. *E.* 1. and it's 2d not untill 8. *H.* 5. which made above 120. Years, though by the Knavery, Corruption, and arbitrary power of Sheriffs, and the ambitious deſigns of ſome that deſired to be elected members of the Houſe of Commous, and the long after introducing of thoſe of *Wales*, *Cheſhire*, *Durham* and *Newwark*, the number of all the Members of that honourable Aſſembly were in Mr *Cromptons* Time who lived and wrote in the later end of the Reign of Queen *Elizabeth*, but 441. ſince increaſed to 500. or thereabouts.

Pryn's *brevia Parliamentar. rediviva.* 226. 227. Crompton's *Juriſdiction of Courts tit. Parliament.*

During the Reign of King *Edward* the 1ſt there were but 70 Cities and Boroughs, beſides the *CinquePorts* which elected and ſent Citizens and Burgeſſes to Parliament of which number 7 made only one election and return of Burgeſſes.

In the Reign of King *E.* 2. there were precepts iſſued by Sheriffs for 19 Boroughs, viz. Great *Marlow* in the County of *Buck*. *Leſcard* and *Leſtithiel* in *Cornwall*, *Bradneſton* in *Devonſhire*, *Melcombe* and *Weymouth* in *Dorſetſhire*, *Ravenſey* and *Rippon* in *Com. Eborum*, *Stortford* in *Hartfordſhire*, *Witney* in *Com. Oxon*, *Axbrigge Chard* in *Somerſetſhire*, *Lichfield* in *Staffordſhire*, *Kingſton* in *Surrey*, *Greeneſted*, *Midhurſt* in *Suſſex*, *Cricklade*, *Mere*, and *Old Sarum* in *Wiltſhire*, which never elected or returned Burgeſſes before, and two precepts iſſued out to other new boroughs, viz. *Dunſtable*, *Glaſtonbury*, *Aulton*, and *Chriſtchurch*, which made no elections or returns thereon.

Under the long Reign of King *Edward* the 3d there were Writs or Sheriffs precepts directed to 19 new boroughs, and elections made to ſerve in his Parliaments or great Councels viz. *Ely* in *Cambridgeſhire* for one great Councel only, *Barnſtable*, *Dartmouth* with *Hardenneſſe* thereunto annexed, *Fremington*, *Modbury*, *Taveſtock* in *Devonſhire*, *Poole* in *Dorſetſhire*, *Malden* in *Eſſex*, *Bromyard*, *Ledbury*, *Ros* in *Herefordſhire*, *Barkhamſted* in *Hertfordſhire* (*Botolph* in *Lincolnſhire*

ſhire for two great Councels only) *Dunſter*, *Langport*, *Monteacute*, *Stoke*, *Curcy*, *Were*, in *Somerſetſhire*, and *New Caſtle* under line in *Staffordſhire*, beſides precepts iſſued to *Hodon* and *Richmond* two new boroughs in *Yorkſhire*, who made no election or return thereupon; and ſaith Mr *Pryn*, neither of thoſe ever ſent Citizens or Burgeſſes to Parliaments or great Councels before that King's Reign for ought he could find by Records or Hiſtory.

And as for the Ports of *Dover*, *Romney*, *Sandwich*, and *Winchelſey* in *Kent*, *Haſtings*, *Hythe*, and *Rye* in *Suſſex*, there are no original Writs of Summons found for the election of any of their Members during the Reigns of King *E.* 1. or 2.

In the Reigns of King *Richard* the 2d, *Henry* the 4th and 5th, there were no Writs or precepts to any new boroughs to ſend Burgeſſes to Parliament.

About the middle of the Reign of King *Henry* the 6th, there were only Writs and precepts iſſued out for 5 new boroughs in 2 Counties to attend the King in Parliament as Members in the Houſe of Commons, namely, *Gatton* in *Surrey*, *Heytesbury*, *Hindon*, *Weſtbury*, and *Wooton Baſſet* in *Com. Wilts.*

During the Reign of King *Edward* the 4th, there was only one new borough, *Grantham* in *Lincolnſhire*, who never ſent any in the former Kings Reigns.

Since which, 14 new boroughs in *Cornwall* namely, *Camilford*, *Caſtlelowe*, *Foway*, *Graundpond*, *St Germans*, *St Ives*, *Kelington*, *St Marie's*, *Newport*, *St Michael*, *Portlow*, *Prury*, *Saltaſh*, *Boſſeney*, and *Tregonney* with the boroughs of *Aylesbury* and *Buckingham*, in the County of *Bucks*, *Cockermouth* in *Cumberland*, *Univerſity of Cambridge*, *Bearealſton*, in *Devonſhire*, *Corfe* Caſtle in *Dorſetſhire*, *Harwich* in *Eſſex*, *Alderburgh*, *Boroughbrigge*, *Knaresbrough*, *Thruſko*, in *Com. Eborum*, *Cirenceſter*, and *Tewkesbury* in *com. Glouceſter*, *Maidſtone*, and *Quinborough* in *Kent*, *Botolph* in *Lincolnſhire*, (as to ſending Burgeſſes to Parliament) *Clitheroe*, *Liverpool*, *Wigan* in *Lancaſhire*, *Weſtminſter* in *Middleſex* (which never ſent one Burgeſs to Parliament, though many have been holden in it until long after the Reign of King *Edward* the 4th.) *Brackley*, *Higham-Ferrers*, *Peterborough* in *Northamptonſhire*, *Eaſt-Recford* in *Nottinghamſhire*, *Cheſter*, *Thetford* in *Norfolk*, *Barwick*, *Morpeth* in *Northumberland*, *Banbury*, and the Univeſity of *Oxford*, in *Oxfordſhire*, *Haſlemore* in *Surry*, *Tamworth* in *Staffordſhire*, *Biſhops-caſtle*, *Ludlow*, *Wenlock* in *Shropſhire*, *Minched*

ched in *Somerſetſhire*, *Chriſt-church*, *Lymington*, *Newport*, *Newtown*, *Peterfield*, *Stockbride*, *Whitchurch*, *Yarmouth*, *St Edmondsbury*, *Eye*, *Sudbury* in *Suffolk*, *Beaudly*, *Eveſham* in the County of *Worceſter*, in all 64. Committing the Knights, Cities, and Boroughs of *Cheſter*, and *Wales*, erected by Act of Parliament *Annis* 27. 36. and 38. *H.* 8.) are all new and for the moſt part (the Univerſities excepted) very Mean, Poor, inconſiderable *B*oroughs ſet up by the returns and corrupt practices of Sheriffs, and ambitious Gentleman, which will be ſufficiently evidenced by the Sheriffs frequent returns of *nullum dederunt reſponſum, & non ſunt aliæ Civitates neque Burgi in balliva mea* or *in com. prædict aut non curant mittere*, ſaith a Sheriff of *Northumb.* in 6. *E.* 2. or *nulli electi ratione belli* in 8. E. 2. or as in *Northumb.* in the 10th Year of the Reign of E. 3. or as in the 8th Year of the Reign of E. 2. when the Sheriff of *Northumb.* returned *quod omnes milites de balliva ſua non ſufficiunt ad defenſionem Marchiæ*; and to the town of *Newcaſtle* upon *Tyne quod omnes Burgenſes villæ prædicta non ſufficiunt, ad defenſionem villæ*; in the 1. E. 3. the *Communitatas Com. Northumb. reſpondet quod ipſi per inimicos Scottæ adeo ſunt diſtracti quod non habent unde Solvere expedſas duobus militibus proficiſſuris ad tractatum & concilium apud Lincoln tenendum*; and the *B*ayliffs of *Newcaſtle upon Tyne* returned, *quod ipſi tam enervantur circa ſalvam cuſtodiam villæ prædictæ quod neminem poſſunt de dicta villa carere.* So little were the former ambitions or deſigns of the Gentry or Common people of the Counties or Shires to be Members of the Houſe of Commons in Parliament as Knights of the Shires or as *B*urgeſſes of Cities or Towns Corporate, from the 49th Year of the Reign of King *Henry* the 3d, unto the later end of the Reign of King *Henry* the 5th, in the courſe or circle of time of about 280. Years.

Pryn's *brevia Parliamentar. rediviva.* 64. & 229. 265.

But all thoſe the Royal cares and condeſcenſions of King *Edward* the 1ſt to pacify a diſcontented part of his people and eradicate a deeply rooted Commotion and Rebellion did too ſoon or quickly after the expiration of the aforeſaid 280. Years deviate and degenerate from the former intentions and deſign of thoſe his Writs of Summons.

SECT.

SECT. XXI.

Who made themſelves Electors for the chooſing of Knights of the Shires to be Members of the Houſe of Commons in Parliament, after the 21ſt Year of the Reign of King Edward *the 1ſt, contrary to the Tenor of his aforeſaid Writs of Summons made in the 22d Year of his Reign for the Election of Knights of the Shire and Burgeſſes, to come to the Parliaments and great Councels of ſeveral of our Kings and Princes afterwards.*

FOr ſo very great was the power, command, and influence of the Nobility and dignified Clergy, as they could from time to time, as the Winds and Tydes do uſually agitate and blow upon the unruly waves of the Ocean, make them lacquey after their good-will and pleaſure, and attend their ambitions and advantages, which began but to peep out and crawl in the later end of the Reign of King *E.* the 2d, when *Roger de Mortimer* Earl of *March* was in a Parliament holden in the Reign of King *Edward* 3. Accuſed of Treaſon, and accroaching to himſelf Royal power by procuring certain Knights of the Shires attending in the Houſe of Commons in Parliament to give their conſent to an aid to the King for his Wars in *Gaſcoigny*, and the humours and intereſts of the Common people were ſo governed and influenced by the grandeur of the *Engliſh* Nobility and principal Clergy enticing them thereunto, more by their own reſpects and deſires to pleaſe and humour, then by any particular motive or impulſe of their own; as in an Election of Members for the Houſe of Commons in Parliament in the 13*th* year of the Reign of King *Henry* the 4*th* the Archbiſhop of *York*, and Sundry Earls, Barons, and Ladies being ſaid to be Suitors in the County-Court of *York*, were by their Attorneys the ſole Electors of the Knights of the Shire of that County; namely by *William Holgate* Attorny for *Ralph* Earl of *Weſtmorland*; *William de Killington* for *Lucy* Counteſs of *Kent*; *William Heſham* for the Lord *Peter de Malo lacu*, *William de Barton* for *William* Lord *Roos*, *Robert de Evedale* for the Baron of *Graiſtock*; *William de Feſton* for *Alexander de Metham*; *Chivaler*, and *Henry de Preſton*, for *Henry de Percy Chivaler* (who was then a Baron) Earles and Barons in thoſe times being well contented to make uſe of that then no diſparaging Title) *Sectatorum communium com.* no other electors being then named in the Indentures

Ro. Parl. 4. 5. 36. E. 3.

Pryn's *brevis Parliamentar. rid. rediviva.* 152. 153. 154.

dentures betwixt the Sheriff and the County of *York* upon that Election; and in the 2d Year of King *Henry* the *5th* with little variation, except for the perſons for whom the Electors were Attorneys; as namely in *Yorkſhire*, *William Mauleverer* Attorney for *Henry* Archbiſhop of *York*, *William Feutores* for *Ralph* Earl of *Weſtmorland*, *William Archer* for *John* Earl-*Marſhal*, *William Rillington* for *Henry le Scrop Chivaler*, *Domino de Maſham*, *William Heſhum* for *Peter de Malo lacu*, *William Poſtham* for *Alexander de Metham Chivaler*, *William Houſam* for *Robert Roos*, *Robert Barry* for *Margaret* the Wife of *Henry Vavaſour Chivaler*, and *Robert Davinſon* Attorney for *Henry Percy ſectatorum communium pro com. Eborum.* (No other ſuitors or electors being in that Election and Sheriffs Indenture then mentioned) the like upon Writs for Election of Knights iſſued to the Sheriffs of *Yorkſhire*, were found by Indentures thereupon.

And in *Annis* 8. and 9. *H.* 5. And in 1. 2. 3. 5. and 7. *Henry* 6. the Attorneys only of Nobles, Barons, Lords, Ladies, and Knights were made the ſuitors who made the election of the Knights of *Yorkſhire*, and ſealed the Indentures untill 25. of King *Henry* 6. when that undue courſe and way ceaſed, and the Election and Indentures were made by the Freeholders; and being Elected were not at that inſtant enabled by them, or at any time after, to act or do any thing otherwiſe then according to the Intent, Tenor and Purport of their ſaid Writs of Elections, untill ſome farther Requiſites were to be by them performed and done, in order to the Truſts repoſed in them by their King and Fellow-Subjects.

SECT. XXII.

Of the Actions and other Requiſites by the Law to be done by thoſe that are or ſhall be Elected Knights, Citizens, and Burgeſſes, to attend our King in their great Councells or Parliaments, precedent and preparatory to their admiſſion therein.

FOr the Sheriffs and people of the Counties were at the firſt ſo punctuall in the due performance of their Kings aforeſaid Writs and Mandates, in all and every the clauſes and particulars thereof, and ſo carefull in their Elections of ſuch as were to be truſted by and for them, in affairs of ſo high and more then ordinary concernment, as the States well-being,

being, and defence of the King, the Church, the Kingdom, Themſelves and their Poſterities, not only for their perſonal appearance, but performance of the truſt repoſed in them, and not to do leſs or more, too ſhort or beyond the bounds of their Commiſſions or Authority granted by the King, as they that were elected were conſtrained at the ſame time to give pledges and main-pernors, and ſometimes four ſecurities, but never under two, that they ſhould not omitt what was commanded by the Tenor of thoſe Writs; inſomuch as in the 30th Year of the Reign of King *Edward* the firſt, *John de Chetwood* and *William de Samtreſden* being elected Knights of the Shire for the County of *Buckingham*, gave four *manucaptors*, and the like did *Robert de Hoo*, and *Roger de Brien* elected Knights of the Shire in the ſame Year for the County of *Bedford*, and in that Year *Andrew Trolesks* and *Hugh de Ferrers* Elected Knights of the Shire for the County of *Devon*, were *diſtricti per terras & catalla quia Pleg. invenire noluerunt.* Pryn's *brevia Parliamentar. redivivus.* 28. & 143.

And in *Anno* 8. *E.* 2. a Sheriff of *Glouceſter* (*Briſtow* at that time being neither City or County) made his return on the dorſe of the Writ of Summons, that the *Cuſtos libertatis villæ Briſtol reſpond. quod elegi fec. Robertum Wildemerſh & Thomam L'Eſpicer ad eſſend. ad Parliamentum apud Weſtminſter, in Octavis Sancti Hillarii qui manucaptores ad eſſendi ad diem & locum prædictos invenire recuſarunt per quod propter eorum vim, malitiam, & reſiſtentiam & executione iſtius mandati ulterius facienda intromittere non potuit.* Pryn's *brevia Parliamentar.* 315.

And a Writ appeareth in that Year to have been returned for the County of *Midd.* that *William de Brooks* and *Richard le Rous milites electi fuerunt per communitatem Comitatus prædict. eſſendi coram concilio Domini Regis ad diem & locum in brevi content. qui poteſtatem habent ad faciend. quod de eodem concilio Secundum brevis tenorem ordinabitur*, after which followed the names of their *Manucaptors* or ſureties, and was a caution in thoſe times believed to be ſo neceſſary as in the 15*th* Year of the Reign of King *Edward* 2*d*, when *Thomas Gamel* one of the Citizens of *Lincoln* being returned with 2 manucaptors, a burgeſs for the Parliament, and not vouchſafing to attend the Mayor and Commonalty of *Lincoln*, they elected *Alain de Hodolſton* in his place, and deſired *Sr William Ermyn* then Keeper of the Great Seal, that he being ſo elected by them, might be received with the other Citizen firſt elected with *Gamel* as their Busgeſs for that Parliament; and ſent that their Certificate and return under their City-Seal affixed Pryn's *brevia Parliamentar. redivivus.* 227. 305.

affixed to the Writ of Election, that very ancient and neceſſary uſage of giving Manucaptors upon Parliamentary Elections being uſed in all the returns of the Writs of Election, for the Election of Knights, Citizens and Burgeſſes from the 21ſt Year of the Reign of King *E.* 1. during the reſidue of his Reign (for before no Manucaptors or pledges for Knights or Burgeſſes elected to come to Parliament were given in for thoſe Knights that were elected in *Anno* 49. *H* 3. for the County of *York*) and from thence during the Reign of King *E.*2. *E.* 3. *R.*2. *H.*4. and 5. and thence until after the 33. of King *Henry* 6. and had after their Elections actuall and formall Indentures, or inſtruments of procuration mutually Signed and Sealed by the Sheriff and the Electors or Aſſentors and Elected, which were with the Writs of Election returned and filed amongſt the records of the King in his *Chancery*, having their procurations or powers inſerted in the percloſe of the indenture made betwixt the Sheriff and the Electors (ſome being named inſtead of many) *Dantes & Concedentes eiſdem* (the parties Elected) *plenam & ſufficientem poteſtatem pro ſe & communitate prædict. ad faciend. & conſentiend. iis quæ tunc & ibidem de communi concilio regni Domini Regis, favente Domino, ordinari contigerint ſuper negotiis in dicto brevi ſpecificat*, and notwithſtanding their election and one part of the Indenture with the procuration therein returned with the Writ to the King in his *Chancery* were not accompted members of the Houſe of Commons in Parliament untill their admittance by the Kings Allowance and Authority as it was upon a great debate adjudged in the 35 *Elizabeth* in the Houſe of Commons in Parliament in the Caſe of *Fits-Herbert*, in which the two eminent Lawyers *Anderſon* and *Coke* afterwards ſucceſſively Lord Chief Juſtices of the Court of Common Pleas were as Members perſonally preſent, and in a Parliament holden in the 18 Year of the Reign of King *Edward* 3. the King was angry that the Convocation of the Clergy appeared not, and charged the Archbiſhop of *Canterbury* to puniſh them for their defaults, and ſaid he would do the like to the Parliament; In the 5 year of the Reign of King *Richard* 2. Members Elected were by an Act of Parliament to appear upon Summons or be *amerced* or otherwiſe puniſhed according as of old times hath been uſed to be done in the ſaid caſe, unleſs they may reaſonably and honeſtly excuſe them to the King, and in 1ſt and 2d *Philip and Mary* 39 of the Members of the Houſe of Commons ſaith *Sr Edward Coke*, (whereof Mr *Edmond Plowdon* the

Pryn's *brevia parl. rediviva.*

Ro. parl. 18. E. 3.

5. R. 2. Ca. 4.

Cokes 4th *inſtitutes.*

the famous Lawyer was one, who pleaded that he was continually preſent at that Parliament, and traverſed that he did not from thence depart in contempt of the King and Queen, and of the ſaid Court) had an Information exhibited againſt them by the aforeſaid King and Queen for not appearing in Parliament according as they were Summoned, cannot be admitted in the Houſe of Commons in Parliament before they ſhall have taken the Oaths of Allegeance and Supremacy before the *Lord Steward of the King's Houſhold*, or his Deputy under a forfeiture or penalty, nor depart from the Parliament without Licenſe, and when admitted are Petitioners for Licenſe to chooſe and preſent their Speaker to the King who in their behalf prayeth to be allowed acceſs to his Majeſty, freedom of ſpeech and from Arreſt of themſelves and their menial ſervants during the time of their attendance, have Wages allowed them by the King to be paid by their Commonalties in *eundo, morando, & redeundo* according to longer or ſhorter diſtances or abode, their Speaker being by the King alſo allowed *Five Pounds per diem* beſides other perquiſites appertaining to his place, are but Petitioners, have receivers and tryers of their petitions aſſigned by the King, or by the Lord *Chancelour de per liu*; and days were ſeldom prefixt and limited for exhibiting of them which were many times rejected with a *non eſt petitio Parliamenti* endorſed, for that it was more proper for inferior Courts and ſometimes for their haſt or Importance of the King's Affairs were ordered to be anſwered in *Chancery*, are no Court of *Judicature or Record*, were not accuſtomed to draw or frame Acts of Parliament which they aſſent unto, but leave them to be formed by the Judges and the King's learned Councel at Law and not ſeldom after Parliaments ended, moſt of the former Acts of Parliament being drawn and framed upon petitions or ſpecifying to be at the requeſt of the Lords and Commons, or of the Commons only, or that the *King Willed, Commanded, Prohibited, Provided or Ordained*; can make no proxies, and are but a grand enqueſt of the Kingdom; are not Authorized to give or adminiſter any Oath, never did or are to do it, but are to ſend ſuch Witneſſes as are to be ſworn to take their Oaths in the Houſe of Peers, and the Members of the Houſe of Commons or their Speaker Jointly or ſeverally cannot adminiſter an Oath unto any of their fellow Members or any of the Commons whom they would repreſent, for that would be to adminiſter it unto themſelves which Juries and men Impanelled in Enqueſts are never permitted to do but

6. H. 8. ca. 16.

1. El. 1. ca. 5. El. 1. 3. Jac.

Ro. parl. 4. E. 3. & *paſſim in regnis ſubſequentium regum* 40. E. 3. & Elings. *manner of holding Parliaments.* 213.

Pryns *animadverſions upon* Cokes. 4 *inſtitutes tit. Parliament.*

Mr. of Mr. Noy.

Cokes 4*th inſtitutes.*

are to receive their Oaths from a Superior Authority, and none but the King or ſuch as have been Commiſſionated by him are impowred to give Oaths, which hath allways put a neceſſity upon the Houſe of Commons when any Witneſſes are to be examined before them to produce and ſend them firſt to be ſworn and take their Oaths in the Houſe of Lords; and they cannot adjourn or prorogue without the King's ſpecial order and command, nor were ever Summoned by themſelves legally to come to Parliament without the Lords Spiritual and Temporal, but as to their Meeting and Continuance were to follow their King in his Houſe of Lords, as the Moon and the Stars (thoſe Common people of the Sky) do the Sun; could not puniſh heretofore an offence or delinquency againſt themſelves or any of their Members without an Order firſt obtained from the King or his Lord *Chancellor*; have ſometimes Petitioned the Lords in Parliament to intercede with the King to remit his diſpleaſure conceived againſt them; in the times of *Henry* the 4 few Petitions were directed to the King and his Conncel, ſome were to the King alone, and ſome to the Lords alone, and ſome to the Commons only, ſaith Mr. *Elſing*; and if they were Petitions of Grace, the Commons only wrote thereupon *ſoit baile as Seigneurs & per les a Roy*, or *ſoit per le a Roy, per les Seimurs* & the other were ſent up to the Lords without any directions, & the Judges & the Kings Learned Councel in the Law prepared all anſwers to the Petitions of the Commons; all Petitions directed to the King were to be conſidered by the Judges and his Councel at Law, and by them prepared for the Lords, if need were by the Commons, who ſometimes Petitioned the King that ſome of the Lords might be ſent to conferr with them; at all their conferences with them do ſtand uncovered, whilſt the Lords doſit covered, & when any of their Members are by the King's grace and favour created Barons or Earls and called into the Houſe of Peers, are to receive others to be Elected in their places, cannot of or by themſelves redreſs undue Elections, could not go home without licence of the King, nor have their Wages levied and paid by their countryswithout his Order and Writs.

Elſings *ancient and modern way of holding Parliaments in* England. 22. 227. 233.

Pryn's *brevia parl. rediviva.* 240.

And being with thoſe requiſites and precautions come unto the Parliament to do and conſent unto ſuch things as by the King and the Lords Spirituall and temporall ſhould be in Parliament ordained, did not Certainly ſit in one Room, Chamber, or Place together.

But whither they did ſit in one and the ſame houſe or Place,

Place, or not, will but little contribute to the extravagant fancies of our now State-Moulders.

SECT. XXIII.

That the Members of the Houſe of Commons being Elected and come to the Parliament as aforeſaid did not by Virtue of thoſe Writs of Election ſit together with the King and the Lords Spirituall and Temporall in one and the ſame room or place; and that if any ſuch thing were as it never was or is likely to be proved, it cannot conclude or inferr that they were or are cor-ordinate or had or have an equall power in their Suffrages and deciſions.

WHich they may dream of from the beginning of the World unto the End thereof and never be able to Evidence, and if it had been ſo, will be ſuch an ill Shaped argument that the Members of the Houſe of Commons in Parliament are thereby to be believed to be co-ordinate with the King and Houſe of Peers. or ſuperior unto either of them as any one that was but within a little of a madman would be aſhamed to propound or put it to the deciſion of the over-circumſpect inhabitants of *Gotham*.

For who but ſuch diſciples or proſelites can find the way to imagine or believe that when King *William Rufus* dined at his Marble table where the Court of *King's-bench* now ſitteth in his large *Weſtminſter-Hall*, and his Nobility and many of his Court attendants ſat at their meat at their many lower table in the ſame hall, could perſwade themſelves or others to ſuppoſe an equality in degrees and Power, or that the King becauſe they did all ſit but in one room or Houſe was no more then co-ordinate with them.

For in the grand feaſts of the *Inns* of Courts, Houſes, Colleges, or Societies, for the ſtudy of our Law, the Judges, Benchers, Barriſters, and utter Barriſters are not ſo ill uſed as to be in danger of any the like argument, becauſe one Common hall or room contained them all; and the honor of the King or his Privy Councel are not diminiſhed becauſe there are greater or leſſer degrees amongſt them ſitting in one and the ſame Councell Chamber. Howſoever if they will keep their words and promiſe to acquieſce in proofs that are negative to what they are ſo willing to affirm, and ſhould be ſufficient to convince their inſane concluſions, they need not want them when

when Mr *Pryn* and many good Anthors will give us large and abundant evidences to manifeſt the errors of ſuch their fond and reaſonleſs aſſertions.

Pryn's 1 *part of Hiſtorical Collections of the ancient Parliament of* England. 6.7. 8. 9. 10. 11. 12.13. 14.15. 15. 17.18.19. 20. 21.22.23. 24.

For in the very many Councels or Parliaments of our Kings reckoned by Mr *Pryn* from *Anno Domini* 673. unto the 1ſt Year of King *John* there were no Knights, Citizens, or Burgeſſes for the Commons, as he poſitively and confidently affirmed either Summoned Elected to thoſe many Councells or Parliaments, or preſent at any of them, and being not there at all there needs not to have been any queſtion or controverſy whether they Sate in one Houſe or Room together.

Mat. Paris.

And when King *John* in the 17*th* Year of his Reign at the Meeting and Rebellious Convention at *Running-Mede* of ſome of his unruly Baronage (which ſome of the *Liberty Coyners* would imagine to be a Parliament) where thoſe Barons were in the head of a mighty Army of their own Party, and the King had but a very few unarmed attendants with him; *Mathew Paris* ſaith, they did in that conference or treaty for a Peace *ſeorſim conſidere*, and notwithſtanding that *Sr Edward Coke* hath without any good Warrant averred that the Lords and Commons in Parliament Sate together, and that the ſureſt mark of the diviſion of both Houſes, was when the Houſe of Commons had at the firſt a continual Speaker which he miſtakenly refers to *Ro. Parl.* 50. *E.* 3. *m.* 8. where-

Mr Dryden *in the Vindication of his Parallel betwixt the* French *Holy League & the* Engli. *League and Covenant. F.* 13.

in a Loyal Learned Gentleman hath againſt his will by miſinformation been led into an Error that our three *Eſtates* the King excepted (as they have been ſometimes and but ſometimes called in our Records) Sate together, and that our Records bear Witneſs that they according to the *French* cuſtom have ſate in one (Houſe or Room) that is to ſay the Lords Spirituall and Temporall within the Barr and the Commons without, for *Mr Pryn* in his Animadverſions upon that and other of his Errors, ſaith, that the King's Writs to Summon the Prelates and Peers *intereſſe nobiſcum & cum cæteris Prælatis, Magnatibus, & Proceribus Regni ſui* (did not intend the Commons, Knights, or Burgeſſes,) *tractaturi veſtrumq́; concilium impenſuri* neither did in all probabillity direct or intend that the Commons ſhould joyn or ſit with them as both the Writs and practice have ever ſince evidenced, and that all that that Roll of 50. *E.* 3. doth import, is but that the Commons came to the Lords Houſe and had ſometimes conference with them, but that they ſate or debated together is no way proved, but contsadicted by many Parliament Rolls as Parl. 5. *E.* 3. Nu. 5. compared with Nu. 6. *E.* 3.

Pryns *animadverſions upon the* 4*th inſtit. tit. Parliament.* 9. & 10.

Si

Si aleront meſme les Prælats & Procurators de Clergy par eux meſmes & les ditz Counties, Barons, & Grauntz par eux meſmes whoſe report being drawn up and then read before the King *& les Prelatz Chivalers de Counties & les gentz des Commun furent pleyſantz a eux touz & par noſtre Seigneur le Roy, Prelatz, Countes, Barons, & autres Grauntz & auxuit par les Chivalers des Countes & Gentz des Commun furent pleinement aſſentuz & accordez* at a Parliament in the 6th Year of the ſaid King he requiring the advice of his Parliament touching the *French* affairs and his voyage thither, they treated and deliberated *C'eſt aſſavoir les Prelatz par eux meſmes & les ditz Countes, Barones, & autres grauntz par eux meſmes & auxuit les Chivalers des Countes par eux meſmes,* and then gave their advice ſo in the Parliament reaſſembled at *York* in the *Utas* of *St Hillary*, in the ſame Year the Prelates, Earls, Barons, and great men by themſelves *et les Chevalers des Countes & Gentz des communs par eux meſmes* treated of the buſineſs propounded unto them; and in the Parliament holden at *York* the Fryday before *St Michael* in the ſame Year, as *q'eux Prelatz ove le Clergie par eux meſmes & les Counties & Barons par eux meſmes Chivalers & Gentz des Countes & Gentz de la commun par eux meſmes, entreteront & imparterent temps* 4. *Vendredi prochein ſuont, & meſmes le Vendredi en plein Parlement les Prelatz par eux meſmes les Countes, & Barons par eux meſmes, & les Chivalers des Countes par eux meſmes, & puis toutz en commun reſponderont;* and the like we read of the Prelats, Earls, Barons and great men *eux meſmes Chivalers & Gentz des Countes* of the Knights, Citizens, and Burgeſſes and Commons ſeparate conſultations by themſelves, and their ſeveral anſwers to the Articles and buſineſſes propounded to them in the Parliaments of 13. *E.* 3. N. 6. 10. 11. part 2. N. 5. to 9. 14. *E.* 3. N. 6. 11. 17. *E.* 3. N. 9. 10. 11. 55. 58. *Ro. Parl.* 20. *E.* 3. N. 10. 11. *Ro. Parl.* 25. *E.* 3. N. 6. 7. *Ro. Parl.* 28. *E.* 3. N. 55. 56. *Ro. Parl.* 36. *E.* 3. N. 6. 7. *Ro. Parl.* 40. *E.* 3. N. 8. *Ro. Parl.* 42. *E.* 3. N. 7. *Ro. Parl.* 47. *E.* 3. N. 6. & *Ro. Parl.* 50. & 51. when the Commons had a Speaker and departed to their accuſtomed place in the Chapter-Houſe of the Abby of *Weſtminſter.*

And ſaith Sr *William Dugdale* at the Parliament holden at *Glouceſter* in *Anno Domini* 1378. in the Reign of King *Richard* the 2d, *in refectorio de armorum legibus tractabatur aulæ autem hoſpitium communi Parliamento erat deputata.*

Porro in camera hoſpitii, quæ camera Regis propter ejus pulchritudinem antiquitus vocata eſt concilium ſecretum inter Magnates *Chron. Abb. Sci. Petri. Glouc. 115. in lib. Cotton. 148.*

nates verſabatur ac in domo capitulari concilium commune.

In the ſaid Kings Reign the Knights and Burgeſſes were called by name in preſence of the King.

Ro. parl. 9. H. 4. m. 8. n. 21. In the great alterations betwixt the Lords and Commons and King *Henry* the *4th* in the *9th* Year of his Reign, and a pacification and endeavour to reconcile the Lords and Commons, the King ſent unto the Commons to come before him and the Lords.

Ro. parl. 13. H. 4. m. 1. & Pryn in his 4 part of the abridgment of Parl. Writs. 574. In a Parliament holden the *13th* year of his Reign the Commons of Parliament were called at the door of the painted Chamber in the Kings Palace of *Weſtminſter*, and came, which ſhews that they did not uſually ſit there.

Elſings *ancient and modern way of holding Parliaments in* England. 74. In the 33. of King *Henry* the 8. The Duke of *Suffolk* then Lord *Steward* commanded the Clerk of the Parliament to call the Names of the Houſe of Commons, unto which every one anſwered, being all in the upper houſe, below the Barr, and then the King came.

Littletons *Tenures.* Nor was or is it likely to be within the verge or neighbourhood of any truth or reaſon, that ſuch an inferior ſort of men as ſome citizens and Burgeſſes to be elected out of ſo many Citys and Boroughs, as thoſe enforced writs of Elections in *Anno* 49. *H.*3. Deſigned, when the Nobility, and Gentry, and the Laws of thoſe times, not only held but believed it to be a diſparagement to a whole Kindred to Marry with the Daughters of Burgeſſes, who might be underſtood to be either their Tenants, or Dependents, ſhould preſume or be allowed to Sit in one and the ſame Chamber, room, or place with their King, ſitting in his throne or chair of eſtate, encompaſſed with his more noble and greateſt councell, the Lords Spirituall, and Temporal, the Peers in Parliament, where none but the Peers themſelves and their Aſſiſtants, are permitted to ſit, and do then alſo ſit uncovered, when the civill and *Cæſarian* Laws, and the Laws, and reaſonable Cuſtomes of nations, do ſo diſtinguiſh betwixt the noble and ignoble, as if a Gentleman be preſent, the ignoble or common perſons ſhall ariſe from their ſeats, and give diligent heed when he ſpeaks; and it is a peculiar honor due unto gentry to ſit upon benches or ſeats, and thoſe who are otherwiſe, are not to take the right hand of them, or the chiefeſt ſeats in the company, or to ſit next the Judge before them, are not to be ſo much valued in their teſtimonies; and more credit ought to be given to the Oaths of two Gentlemen produced as witneſſes, then to a multitude of the vulgar or ignoble perſons, & though many and great privileges are and have been in the civill

Sir John Fernes *glory of generoſity.* 77. 78. 79.

Laws

Laws given and allowed to the Honorable Order of Knighthood, and that our Kings and common laws have given unto them great reſpects and privileges, which are and have been to theſe our dreggy and worſt of times enjoyed, yet it can be no diſparagement to that ever to be eſteemed Order and Degree, to have it affirmed and believed, that it hath been from the 21*th* year of the Reign of King *Edward* the 1*ſt*. to this our preſent century, and ſcarcely ſlipt out of the memories of aged men, no unuſuall thing that many of the Knights of the ſhires and Burgeſſes, elected to be members of the houſe of Commons, have been the Secretaries, Stewards, Feodaries, or domeſtick Servants, Reteyners, Tenants by Knights-ſervice or Petit Serjeanty, Caſtle-guard, or managers of ſome part of the Lands and Eſtates of the Nobility and great men of the Kingdom.

Idem ib. 216. 217.

Claudius Cantareus de militibus.

And as to that which ſome that are unwilling to Submit to the powers of truth and right reaſon, will be ready to object, that in the 3. year of the Reign of King *Henry* the 8*th*, a Committee of the Lords have come into the Houſe of Commons to confer with them, and probably, ſaith *Mr Elſing*, might during the time of that Conference ſit with them, yet it was but *pro hac vice* and not conſtantly or at any other time.

Elſing's *ancient and modern way of holding Parliaments in* England. 84. *and* 85.

And when King *James* in the 7*th* year of his Reign was pleaſed to order the Lords and Commons to ſit in the Court of *Requeſts*, the Lords on the right hand by themſelves, and the Commons on the left, they did then ſit diſtinctly as out of their ſeparate houſes to be Spectators of the creation of Prince *Henry* to be Prince of *Wales*, and could be no more an argument for thoſe contrivers who are enforced to pick up any thing that they can imagine may be for their purpoſe, then that of the fatal over-eager proſecution of the late Earle of *Strafford* at the ſuit & inſtance of the houſe of commons upon their unlucky bill of Attainder in *Weſtminſter-hall*, whether his late Majeſty (afterwards murthered and martyred) had from their ſeparate and diſtinct houſes for that only buſineſs, diſlocated and transferred them.

SECT.

SECT. XXIV.

What the clauſe in the Writs for the Election of Knights, Citizens *and* Burgeſſes *to come unto the Parliament, ad faciendum & conſentiendum, do properly ſignify, and were intended by the ſaid Writs. Of Election to be Members of the Houſe of Commons in Parliament.*

FOr *Aſſenſum dare eſt probari l. 2. c. de relation. Conſenſus denotat æqualitates ſententiarum, cogitationis & voluntatis.*

And *facere duplici modo accipitur, aut pro nudo facto, aut eo quod effectum juris poſt ſe relinquit, ſi nudum eſt factum, nihil aliud ſignificat quam corporalem effectionem, veluti foſſam fodere, Romam ire &c. Quando autem effectum juris poſt ſe relinquit, omnem omnino faciendi cauſam complectitur, dandi, ſolvendi, numerandi, judicandi, l. verbum 218, F. de verb. ſign. item reddendi l. 175. eodem tit. & reſtituendi quo intellectu pro gerere & reddere accipitur & pro eo quod eſt tradere l. verbum 54. F. de verb. elig. l. extat F. quod me Cod. ad L. faciend. de verb. ſig. Hinc facere poſſe vel non poſſe in jure Civili pro Solvendo eſſe vel non eſſe ſect. pend. de act. 3. de conſtit. per l. 14. ſect. 1. & poſſe F. de re.*

Conſentire eſt in unam Sententiam concurrere l. 1. F. conventionis. F. de pactis ſic accipitur in l. conſenſu F. de action. & oblig. conſentire videtur qui præſens non contradicit l. 7. in fine Gothofred ad l. 2. in prin. F. conſentit item qui non repugnat l. 12. de Sponſ. conſentire dicitur cum duorum voluntates in unam concurrunt utroque approbante & ſciente, & conſenſus proprie non dicitur niſi qui verbis expreſſus eſt l. 1. ſect. voluntatem. Non qui cogitat aut loquitur proprie dicitur facere, ſed agere, Cum tamen quicquid fiat etiam agi dicitur.

And it neither is or ever was intended that the Commons Aſſembled in Parliament were to ordain, but to conſent unto and obey ſuch things, as their King and Sovereign by the Councel and Advice of the Lords Spirituall and Temporall ſhould ordain.

And therefore they will be foully miſtaken, and run over head and ears into the groſſeſt of errors, if they ſhall ſuffer themſelves to be Seduced into a groundleſs opinion that they can, and are to adviſe the King in the making or repealing of Laws, as the Lords Spirituall and Temporall are,

are, or that they are to conſider or adviſe with their Sovereigns, or have as great an intereſt or charge incumbent upon them in the weal publick, and that the giving their aſſent is to be as a *cauſa efficiens ſine qua non.*

For if they will take the pains to conſult our Old Hiſtorians and the Grants and Charters of our former Kings and Princes or great men, and the ſubſcriptions thereunto, they will find the aſſent of all the ſubſcribers, but the Donors, to ſignify no more then approbations, or teſtimonies of witneſſes, of which *Ingulphus*, *Eadmerus*, with Mr. *Seldens* annotations thereupon, and his tittles of honours, *Mathew Paris*, and Sr *William Dugdales Monaſticons* will afford us plentifull proofs and examples, and it will be beyond the reach of credulity it ſelf that all or any of ſuch ſubſcribers, except the Donors, had any proper or juſt intereſt of their own thereunto either to promote or hinder it. As in that Charter made by *Witlafius* King of the *Mercians in Præſentia Dominorum ſuorum Egberti Regis Weſt-Saxoniæ & Athelwulphi filii ejus coram Pontificibus, & proceribus majoribus totius Angliæ in Civitate Londonia, ubi omnes congregati ſumus pro concilio capiendo contra Danicos piratas littora Angliæ aſſidue infeſtantes ſigno ſanctæ crucis confirmavit*; or in that in *Anno Domini* 833, the grant of great quantities of Lands to the Abby of *Croyland* atteſted by ✠ *Celnothus Archiepiſcopus Cantuarienſis conſului.* ✠ *Ego Euboldus Archiepiſcopus Eboracenſis conſignavi.* ✠ *Ego Oſmundus Epiſcopus Londinenſis collaudavi.* ✠ *Ego Helmſtanus Epiſcopus Wintonienſis aſſenſum præbui.* ✠ *Ego Herewicus Epiſcopus Lichfieldenſis conſenſi.* ✠ *Ego Cedda Epiſcopus Herefordenſis aſpiravi.* ✠ *Ego Adelſtanus Shireburnenſis Epiſcopus procuravi.* ✠ *Ego Humbrithus Helmari Epiſcopus probavi.* ✠ *Ego Wilredus Dommocenſis Epiſcopus annui.* ✠ *Ego Herferdus Wigornenſis Epiſcopus gratum habui.* ✠ *Ego Godwinus Roffen Epiſcopus favi.* ✠ *Ego Hebba Abbas de Medel Hamſted ratificavi.* ✠ *Ego Ambertus Abbas Ripadii interfui.* ✠ *Kincuinus Abbas de Bardeine aſtiti. Ego Egbertus Rex Weſt-Saxoniæ conceſſi.* ✠ *Ego Adelwulphus filius Regis Weſt-Saxoniæ conſenſum dedi.* ✠ *Ego Wulhardus dux affui.* ✠ *Ego Athelſtanus dux audivi.* ✠ *Ego Herenbrithus dux acceptavi.* ✠ *Ego Swithinus Presbiter Regis Egberti præſens fui.* ✠ *Ego Roſa ſcriba Regis Withlafii manu mea Chirographum iſtud ſcripſi.*

Ingulphi hiſtoria 486. 487. 488.

And King *Edgar* in his Charter and confirmation to the Church of *Glaſtenbury*, uſing the Title of *Ego Edgar divina diſpoſitione*

Dugdales *Monaſticon*, Tom. 1. 16.

dispositione Rex Anglorum cæterarumq; gentium in circuitu persistentium Gubernator, & Rector, viz. Dunstano Doroberneńsi & Oswaldo Archiepiscopis adhortantibus, consentiente etiam & annuente Brithelmo Episcopo Fontanensi, cæterisq; Episcopis, Abbatibus & Prioribus cum sigillo sanctæ Crucis confirmavit, Ealfgina ejusdem Regis mater consensit; Ego Kenadius Rex Albaniæ adquievi; followed by the consent of divers Abbots, Dukes. and Servants of King *Edgar*, *communi concilio Optimatum suorum* in the 12th year of his Reign.

And the same King founding a Colledge or Abby near unto *Winchester* Church had the consent or approbation of *Dunstan* Archbishop of *Canterbury* with a *corroboravi* of *Edmond* and *Edward Clitones* or sons of that King then under age, of *Alfthryth* the Queen with a *Crucem impressi*, of *Eadgifu* the Kings grandmother with a *Consolidavi*, of *Oscytil* Archbishop of *York* with a *confirmavi*, of the Bishop of *Winchester* with a *Benedixi*, the Bishop of *London* with a *Consolidavi*, *Osulf* Bishop *Confirmavi*, *Oswold* Bishop *Consignavi*, *Alfwold* Bishop *Consolidavi*, *Byzethtlen* Bishop *confirmavi*, *Alfetan* Bishop *consolidavi*, *Eadelm* Bishop *Confirmavi*, *Athulf* Bishop *consignavi*, *Wensige* Bishop *confirmavi*, *Æscwig* Abbot *consolidavi*, *Osgar* Abbot *consignavi*, the confirmation of two other Abbots and the newly instituted Abbot of the foundation of *Alfhere* Duke followed by 5 Dukes more and 8 *ministri* or Thanes of the King, who as Mr *Selden* in his comment thereupon noteth, *nempe plerumq; ut Regius Cliens aut minister Aulicus fundum eo nomini possidebat*, those ages believing that *consentientes et facientes pari constringuntur pœna*, in the hindring or not performance thereof, as in that grant of *Æthelred Anglorum Basileus* of land to the Abby of St *Albans* in the year of our Lord 996. said to be assented unto and confirmed by the Queen, 10 Bishops, 8 Abbots, 4 Dukes, 8 *Thanes*, or servants of the Kings who had no right or inteleſt in those lands; and in an Original Charter of King *Stephens*, by which he gave *Sutton* to the Church of *Winchester* in exchange for *Morden*, after the subsigning of divers Bishops & Earls and some others that were great Officers, there were 17 that subscribed with the Title of *Barons*.

Seldeni notæ & Spicilegium ad Eadmerum 155. & 160. Mat. Paris *ad dolamens.* 241. Seldens *tit. Honour.* 689. & 690.

And when *Æthelbald* in the Year of the Incarnation of our Saviour Christ, 730. as his Charter mentioneth *Domino donante Rex non solum Mercor sum, sed & omnium provinciarum quæ generali nomine Angli dicuntur*, did grant *Cumberhto* 10. *Cassatas terræ, cui ab antiquis nomen est indicum Husmerat, juxta fluvium stur*, subscribed with ✠ *Ego Æthelbald Rex Britaniæ*

Seldens *title of Honour.* 607.

propriam

propriam donationem confirmavi, ſubſcripſi, ✠ *Ego Unor Epiſcopus conſenſi, & ſubſcripſi;* ✠ *Ego Unilfridus Epiſcopus (jubente Æthelbaldo Rege) ſubſcripſi;* ✠ *Ego Æthelric ſubregulus, atque Comes Glorioſiſſimi principis Æthelbald, huic donationi conſenſi & ſubſcripſi;* ✠ *Ego Ibrorsi magnus Abbatis conſenſi & ſubſcripſi;* ✠ *Ego Heardberht frater (atque dux) præfati Regis conſenſi & ſubſcripſi;* ✠ *Ego Ebbella conſenſum accommodans ſubſcripſi;* ✠ *Ego Onec. Comes ſubſcripſi;* ✠ *Ego Oba conſenſi & ſubſcripſi;* ✠ *Ego Sigibrid conſenſi & ſubſcripſi;* ✠ *Ego Bercot conſenſi & ſubſcripſi;* ✠ *Ego Ealdoult conſenſi & ſubſcripſi;* ✠ *Ego Caila conſenſi & ſubſcripſi;* ✠ *Ego Pedo conſenſi & ſubſcripſi.*

And the meer conſent of a Tenant to his Landlords or Lords grant by Attornment doth not encreaſe or enlarge his former eſtate, but is only a conſent and agreement unto that grant or as an obliging taking notice thereof: And where an Archdeacon, Dean and Chapter are Summoned to Parliament *ad tractandum*, they neither did, do, or can claim any other power beyond their obedience to what ſhould be ordained by their Superiors.

Cokes 1. *part inſtit ca.* 10. *tit. Attornment.*

The choice or Election of a Verdurer in a Forreſt by the Kings Writ, doth not make thoſe that did it, the owners thereof; and the Election of a Coroner by the like Authority to collect and take care of the Kings rights and profits, did never yet truly and rationally ſignify, that the Electors were the Maſters of them; neither doth the aſſent of the Freeholders in a Court-Baron or Leet, deveſt the Lord of the Manor or Court-Leet of any part of his Right, Propriety, or Juriſdiction therein.

For to aſſent in the aforeſaid enforced Statute *de Tallagio non concedendo*, without the aſſent of the *Prelates*, *Earls*, *Barons* and *Commons* of *England*, *viz.* That *Tallage* or Aid ſhall be taken, or leavied by the *King* or his Heirs in his Realm without the aſſent of the Arch-Biſhops, *Biſhops*, *Earls*, *Barons*, *Knights*, *Burgeſſes*, and other *Freemen* of the Land; which *Tallages* were the priſes (as *Walſingham* mentioneth) taken *de bobus vaccis*, *frumentis*, *bladis & coriis*, (purveyance taken againſt his preparation for Warrs in *Flanders*) *de quibus tota Communitas Angliæ gravabatur*, but was never granted and intended, either in words expreſs or tacite, to give either unto the Houſe of Peers or Commons Jointly, or ſeverally, a Negative Vote, or deniall, or a Legiſlative power, but only to free themſelves from thoſe Tallages and Priſes complained of, which had ſuch a force

Ro. & 27. E. 1. Walſingham *Hiſt. Angl.* E. 1.

force and obligation upon them, and plated in them ſuch a reverence and awfull reſpect to their King and head, as they did ſubordinately, not ſeldom, obtain their Kings Leters-Patents to licenſe, or impower them, *Talliare Tenentes ſuos de dominico ſuo.*

Dugdales *Baronage.*

And although the Commons in Parliament in the 2 year of the Reign of King *Henry* the 5th had in the Advantage, which they ſuppoſe they might ſafely adventure upon in a Time of Uſurpation, aſſumed and arrogated to themſelves a Legiſlative co-ordinate power in the making of Laws which other then Petitionary as Subjects to their King, none of their predeceſſors before or ſince the 48th year of the Reign of King *Henry* the 3. ever had or obtained, untill the laſt Horrid Rebellion in 1642. when they would make heedleſs and headleſs ordinances inſtead of Statutes or Acts of Parliament without their King, and would not forſake their madneſs untill they had Murthered that Bleſſed Martyr King *Charles* the I. yet the anſwer of King *Henry* the 5th to that Petition and claim did ſo manifeſtly deny to give any allowance thereunto as one of their greateſt Champions and Underminers of our Fundamental manarchick Laws could afford, without prejudice to his the grounded cauſe to give poſterity, that Kings anſwer thereunto but concealed it as a conviction not to be devulged to their ſeduced Proſelites.

Ro. Parl. 2. H. 5. m. 10. and Dr. Bradys *anſwer to Mr.* Pettits *Book that the Houſe of Commons is an Eſſential part of the Parliament.*

For in the making of a Biſhop, wherein the King is acknowledged by the laws of *England*, truth and Right reaſon, to be the only true and proper cauſe of making him a Biſhop, and the impoſitions of hands by ſome of the Presbyters Subſervient unto him in his Dioceſs which was but Ceremoniall and much leſs then the ornaments of *Aarons* garments in his multifarious prieſtly Attire, and could never make or ordain him a Biſhop without the King, or give him Livery of the Lands appertaining to the Biſhoprick; neither doth any Law or right reaſon of any Nation or the dictates of holy Writ enable any to believe that the aſſent of the Woman or Wife in the holy Rites of Matrimony, could or ſhould ever entitle her unto a command and ſuperiority over her Husband, or Annihilate the Decree of Almighty God in the framing and forming of Man and Woman kind and order of the ſubſervient government of the World.

And it would be an Engine mathematicall, or contrivance Worth the Enquiry or finding out, if it could be poſſible, how to ſettle or make our moſt excellently compoſed Monarchick Government uſefull in its Legiſlative power, if the Houſes of

Peers

Peers and Commons in Parliament ſhould diſagree who but their King and Superior can or could be able to reconcile their diſcording Votes, Opinions or Reſolves.

For our Records Hiſtories Annals and National Memorialls have never yet found or ſo much as mentioned any Laws Statutes or ordinances made in Parliament or out, without *le Roy le voult* or his fiat or grant, or the grant and aſſent of the *Cuſtos Regni* or his Lieutenant Commiſſionated by him made by an Houſe of Peers or Commons or party of them as it were in Parliament, untill the Devil in a Religious habit taught it unto the laſt moſt horrid of incomparable Rebellions, or that any Houſe or number of Peers ever did or attempted to do any ſuch thing or matter without the Kings *le Roy le veult* fiat aſſent or ratification, or that of his *Cuſtos Regni* or Lieutenant Commiſſionated by him, Except that which was done by *Symon Montfort* and his Rebell partners in *Annis* 48.49. *Henry* the 3 againſt that diſtreſſed over powred Prince; when they had taken and kept him a priſoner for more then a Year, and by fear and by force iſſued out Writs in his name for an Original of an Houſe of Commons in Parliament, and owned and acted what they would have him, or conſtrained him to do in his name, and as by his ſole authority neither as *Ego & Rex meus* or *Senatus populus quo Anglicanus*; neither can the Eyes of any far-ſeeing *Linx* or *Lynceus*, or any *Perſpicuity*, clearneſs or ſtrength of ſight, or the greateſt of induſtry ſearch or ſcrutiny whatſoever of our records or Hiſtorians, or even of our Neighbor nations, find or make any but Fools or Knaves or Criminals of the higheſt nature believe, that any Law was ever made in *England* or concerning any part of its dominions or teritories without their Kings regal Aſſent, Will or Dictate, untill that Houſe of Commons made that moſt damnable ever to be abhorred wicked Vote or Order, which they would have called a Law, for the Murder of K. *Charles* the Firſt, Two of the principal Contrivers whereof *Cromwell* and *Bradſhaw* have ſince had their Carcaſſes by a juſt Judgment of God thrown and buried under Tyburn a Common place of Execution for Theeves and Traytors, the worſt of Criminals and Maleſactors in mankind; but leſt the over haſt of the deſigns of thoſe that would make a gain thereby ſhould Gallop them into Errors of no ſmall dangers or miſchiefs to the publique, they may be pleaſed to take a little breath, pauſe and conſider the true meaning acceptation and extent of the words Conſtitute Convince *& Colloquium*, ſo often and neceſſarily uſed in the Writs and Mandates of our Kings and Princes, in ſummoning

or calling a part of their subjects unto their great Councels or Parliaments.

For *Constituere convenire Significat & conveniendo obligat se ad id quod jam debitum est, sic constituere pecuniam est jam ante debitam absque stipulatione promittere Theophil. in* Sect *de const. non solum pro alio sed pro seipso quis recte constituat.* Sect. *de constitut. inst. de act. debitum autem oportet esse quod instituitur, constituere possunt qui bona vel peculia habent cum libera administratione Gad. l.* 182. *& de verb. & res Signif. constituimus nudo consensu eoque sufficiente ad actionem producendam* Sect. 9. *de just act; constituere in dignitate, munere Briss. ex F. & C. constituere quæstionem est decernere ut judicetur Constitutio in generali nomine dicitur jus quod a principe conditur Theophil.* Sect. F. *de jur. natur.*

Constitutum i. e. *decretum, Constitutus dies, dies præfinitus Lex Lengobard si talis causa fuerit quam deliberare minime possit pœnas constituat & distringat hominem illum de judiciaria sua i. e. diem constituit lib.* 1. 2. *tit.* 21.

Du Fresne glossar. Tom. 1.

And it was the duty and interest of the Commons Elected to come unto Parliament to consent unto such things as the Lords of whom they held their Lands, and stood in great awe of to gain their loves or avoid their ill-wills should advise, which with their Oath of Allegeance to the King their Superior Lord, and their Homage and Fealty done to the *Mesne* Lord, might perswade them to be as unwilling to forfeit their Lands as they would be to injure their Judgments and Consciences.

And though in some of the Writs for the wages of the Commons in Parliament assembled, it hath by the mistaking or inadvertency of Clerks been sometimes said, that they came and tarried *ad consulend. & tractand.* yet the Tenor and intention of the most part of the Writs of Election for the Commons have been since the 21st Year of the Reign of King *Edward* the 1. as many as almost 20 for every one in the purpose, Tenor and commanding part of it, no more then *ad faciend. & consentiend.* and sometimes *ad loquendum*, and at another time *ad audiendum & faciendum*, upon which and no other account they came thither, and were returned as Subjects, not *King-makers, Law-makers, Governours, Disposers* or *Deposers*, and whilst they remained there, or *in veniendo & redeundo*, and tarried at home, were nor could be no otherwise then Subjects.

And in that and no other manner certainly did King *Edward* the 3d understand it, when in a Parliament holden by him at *Westminster* in the 45*th* Year of his Reign there had been

been a great miſtaking in the deſigned manner of levying an aid granted to the King of 22 *s.* and 3 *d.* out of every pariſh of *England* as hath been before mentioned: Upon the examination whereof after the Parliament was diſmiſſed, the King and his Privy-Councel finding that that rate upon every Pariſh would fall much ſhort of the ſumm intended, and not ſupply the publique occaſions, did by an extraordinary ſpecial Writ directed to the Sheriff of every County, command them to Summon only one Knight, Citizen and Burgeſs of each County, City and Borough ſerving in that Parliament, eſpecially named by the King in thoſe Writs, to avoid trouble and expences, to appear at a Councel to be holden at *Wincheſter*, to adviſe how to raiſe the intended ſumm of Money, and directed the Sheriffs to enquire and return the number and names of all the Pariſhes, Churches, Chappells, and Prebendaries within their reſpective Counties, in the hands as well of Lay-men as of Clerks and Religious perſons, who accordingly meeting in the ſaid Councel of *Winton*. which continued ſitting but 9 days, as the Writ for the Knight of *Southamton* expreſſes, and for *Suſſex*, *Berks*, *Oxon*, *Wilts*, only for 11 days, and to others in like proportions, each of thoſe Knights, Citizens, and Burgeſſes, though they received their expences for going to, tarrying at and returning from the Parliament at *Weſtminſter*, which granted that aid to the King, and were ſpecially again Summoned to that Councell to rectify their great miſ-calculation in the aid intended and number of Pariſhes, had their expences by the Kings Writs allowed unto them for that purpoſe for repairing to, continuing at, and going home from that Councell, and in that and no other ſenſe or manner did the Commons in that Parliament underſtand it.

Ro. Clauſ. 45. *E.* 3. *m.* 22. *Dorſo* 2. *parts of Mr* Pryns *regiſter of Parliament Writs and* 4. *part of a brief Regiſter of Parliament Writs* 288. 289.

Neither did the Commons in Parliament, (when upon the grant of the Lords in Parliament in the 13*th* year of the Reign of that King of the 10*th* Sheaf of all the corn in their demeſnes, except that of their bound Tenants, the 10*th* fleece of wool, and the 10*th* lamb of their own Store to be paid in 2 years. They made anſwer that they *knew and tendred the Kings eſtate, and were ready to aid the ſame, only in this new device they durſt not agree without further conference with their Countries, and ſo praying reſpite untill another time they promiſed to travell their Countries*) think themſelves to be Kings or Sovereigns over their fellow-Subjects, or that they themſelves were any other then Subjects.

Ro. Parl. 13. *E.* 3.

And Sr *Edward Coke* having affirmed it to have been as

it

it were a Law or Custom of Parliament, hath likewise informed us that in the 42 year of the Reign of that King, it being declared to the Parliament by the Arch-bishop of *Canterbury*, that in a Treaty between the Kings Councel and *David le Bruce* of *Scotland*, the last offer of the said *David* was, that he was willing to have (so as he might freely enjoy to him in fee) the whole Realm of *Scotland* without any subjection, or any other thing which might be accompted a perpetuall charge, concerning which the Lords and Commons being willed to give their advice made severall answers, that they *could not assent to any such peace or any thing in Parliament that tendeth to the Disherison of the King and his Crown whereunto they were Sworn.*

Cokes 4. *part institutes* 14. *Ro. Parl.* 43. *E.* 3. *m.* 7.

For that which in all governments begot the frequency of the use of the word, *assent*, more especially with many of our Kings and Princes in their Laws, rescripts, Charters and Edicts, proceeding from a design and desire only of complacency to win, engage and continue the love and affections of their Subjects, and perswade them to a more willing obedience and better liking of what they had before given their assent unto, in the framing or contrivance of any Laws, orders, or reglements, which might produce a custom not easily to be abandoned or forsaken.

There being no greater ties or obligations imaginable upon mankind next to the fear and obedience to the divine Laws, then Interest, Self-preservation, and publick good, and the dangers and mischiefs, which might and too often do ensue by the neglect of any or all of them.

Or if the Commons Writs to attend in Parliament or their Sovereigns great Councells *ad faciendum & consentiendum*, had been, as they neither were or ought to be, *ad consulend. & tract. super arduis*, it was not *super omnibus sed de quibusdam*, that could not *ex vi termini* or the intent of their Sovereign, or by any common or rationall intendment of any other, be understood to give them an authority over their King that desired their advice, nor operate any thing to furnish them with a power which they could not claim, or to release or discharge their duty and allegiance; nor should transport their actions beyond the energy in either the *mandate* or *procurations*, for if it should, the multitude of Counsellors which *Solomon* accounted to be a safety, would be as so many Masters or dangers, and there can be nothing in the words *ad faciendum & consentiendum*, or the sometimes

misclerkled

miſclerkled or miſapplyed words *conſulendum, tractandum, ordinandum*, or in thoſe at other times uſed words or expreſſions *ad audiendum vel loquendum* in the uſe, right, or genuine acceptation, intendment, ſignification, true Etymology or common conſtruction of either, or any of theſe words, jointly or ſeverally to make them æqualls, Comptrollers, or maſters of their Sovereigns, for though good Councell be as the eyes, ears and common ſenſes to a Prince or Magiſtrate, yet it could never claim to be the ſoul or reaſon of them. *Varſevicius de Concilio.*

For *Concilium* by *Feſtus* is derived *a conſulendo vel quod in unam ſententiam plurium mentes conciliant*, and *Conſiliarius* is no more then *ſuaſor, Conſultor, conſulere veneranda antiquitate fuit judicare, de utili & honeſto decernere: concilium & mandatum in hoc differunt quod mandatum ſpecies quædam eſt imperii quod pro ſocietate generis humani receptum eſt ut quod cuique negotium datum eſt id mandatoris periculo conficiatur. Concilium autem ab imperio alienum eſt, nec ullam voluntatis ejus qui conſultum dat ſignificationem habet, itaquè ejus conſultoris arbitrio permittit, nec utrum fiet nec ne laborat itaq; ex concilio nulla naſcitur obligatio, ex mandato naſcitur. l. 1. in fin. & l. 2. F. & l. conſil. de regul. juris.* *Martinius.*

Tractare eſt diſcutere, agere vel deliberare ſeu differere; ſic tractare in jus l. 1. F. 44. l. Jul. de Adult. ad tractandum id eſt agendum ſeu colloquendum l. 9. F. ad l. Jul. de Adult.

Tractatus pro queſtione & articul. in l. 5. in pr. & F. pro F. de preſcr. verb. l. ult. F. Ordo eſt diſpoſitio recta antecedentium & conſequentium ſcilicet quodq; ordine ſuo loco collocamus.

Loqui hi dicuntur qui cum quodam judicio vocem proferunt atq; ſingula ordine collocant vel ſenſus aliquos verborum de reg. juris l. 2. & 6. F. rem puplic.

Mando ſaith *Martinius* ſignifieth *gerendum procurandumve, aliquid committo ut Imperii onus impono, jubeo, volo, neceſſario fieri eſt autem mandare alicui perſonæ gerendum, aliquid exequendumque committere, mandatum eſt conventio qua is qui rogatur procuratoris animo id ſe recepit gratuito daturum facturumve, mandamus libero homini, villico, aut ſervo imperamus mandata appellantur præcepta principum quæ præſidibus provinciæ profiſcientibus dabantur quibus omnis eorum poteſtas continebatur, l. 1. & leg. 19. F. de Offic. l. 27. in fine & l. 33. F. de Jnre proconſul.*

And *Colloquium* is no more then Κοινολόγια, συνόλογια διάλογος, to talk or confer together. *Bracton* calleth the *Parliament Magna Curia, & Communis reipublicæ ſponſio,* *Martinius & Calvin in Lexis Philologis*

Bracton. and in the beginning of his Book writeth in this manner, *Lex vigorem habet, quicquid de Concilio & conſenſi Magnatum & reipublicæ communi ſponſione, Authoritate Regis ſive principis præcedente Juſte fuerit definitum & approbatum*; the Regiſter of Writs in the Writs of *Waſt & Ceſſavit* ſtileth it *Commune Concilium regni*, Henry of *Huntington* termeth it *Magnum placitum*, when ſpeaking of a *Parliament* he doth it in theſe words, *fuit in nativitate ſanctæ Mariæ magnum placitum apud Northampton, in quo congregatis omnibus principibus Angliæ deliberatum eſt quod filia ſua rediretur viro ſuo Comiti Andegaviæ.*

Ordinare i. e. judicium, cauſa, res, l. 24. *l.* 25. *& ordinare poſtrema vel ſuprema judicia l.* 15. *C. de teſtam*, which the Commons cannot claim, when by their Writs they are Elected, only *ad faciendum & conſentiendum iis*, which Martinius. the King by the advice of the Lords Spiritual and Temporal ſhould ordain, *& facere abſolute eſt facere judicium & ſuffragium dicitur vox illa qua unuſquiſq; declarat ſuam voluntatem, Et pro auxilio accipitur, Et ſuffragium dicitur proprie acclino deinde per Metaph. aſſentio, foveo, auxilior, Et ſignificat ſuccurrere, auxilium dare, Et voces quæ dicebantur in Comitiis* cannot be underſtood to make every Vote or opinion, which is but *recens & imbecilla aſſenſio*, to have the force of a Law: *Et opinio quod incerta eſt* is not to be eſteemed either as a Law, or any thing more then an *Embrio*, or ſomething more then a wiſh or deſire; and if it grow not up into a Law, is to return into a Vote, only with *Quid enim niſi vota ſuperſunt*, and muſt not claim to be a Law, when it hath got but a third part, or the ſmaller of the way unto it, and ſhould not adventure to enforce as many as they can to believe a Vote of the Houſe of Commons in Parliament to be a Law like that which hath been ſaid of the Laws of the *Medes* and *Perſians* (who are now and long have been under an Arbitrary Government) irrevocable, when as the Commons in Parliament have been from the firſt originall or beginning of it in the 49th Year of the Reign of King *Henry* the 3. and for many ages paſt, and are and ſhould be Cokes *lib* 4. *inſtitutes.* no more then (as Sr *Edward Coke* ſaith) a Grand Enqueſt, as men that were moſt Cogniſant, that beſt knew the grievances of their Countries with what might be their proper remedies, and their abilities or diſabilities to aid their Sovereign, and aſſiſt the publick good, being the trueſt, moſt intelligent and moſt conſiderate Judges of their own Intereſt, and the right and only uſe of their being Elected appeareth by the uſe and reaſon

reaſon thereof to be no other in Parliaments then Informers of grievances, and are to be Petitioners for Laws or Remedies.

When it is *Judicis Officium*, that is to ſay, the *Suprema poteſtas*, which in *England* was never yet proved or rightly underſtood to reſide in the People or any other then the King; and *in valde dubiis opinionibus in quibus non appareat quæ ſit magis communis rationes quæ ex utraq; parte efficaces adducuntur Trutinare & non eſt dubitare de iis quæ lege vel apertaratione monſtrantur Qua propter opinio quælibet contra legem & veram rationem & vana eſt.* *Salamonius de nat. gent.*

And if any ſhould be ſo wild or gone out of their reaſon as to endeavour to make an Aſſent to be æquivalent, or as much as an innate Authority, or any Effect of a Superiority, or ſo much as a reſemblance thereof, they may as well undertake to aſſert that the Prelates, Earls, Barons, and Commonalty of *Engl.* had power to create *Edward* the black-Prince, Son and heir apparent of King *Edward* the 3*d* Prince of *Wales*, and to give him the Principality thereof, becauſe that great and victorious King in the 11*th* year of his Reign, did grant it unto him, *concilio et concenſu Prælatorum Comitum & Baronum & Communitatum Regni ſui* (*non ſuorum*) *Angliæ in generali Parliamento*; when in the preamble thereof, he declared, that he did it *de ſerenitate Regalis præeminencia*, and the Commons in Parliament in the 50*th* year of the Reign of that King, after that the Archbiſhop of *Canterbury* had ſpoken much in the commendation of *Richard de Burdeaux*, Son and heir of *Edward* late Prince of *Wales*, Son and heir apparent of the Realm, did with one voice pray the Lords (ſo ignorant were they then of their own ſuppoſed co-ordination and ſo over-valuing the power of the Lords) that they would make him Prince of *Wales* as his father was.

Who anſwered, that *it lay not in them but in the King ſo to do, but promiſed to be Mediators for him.* So as they who would pretend to ſuch a large repreſentation of the people, are to remember, that they can give no power but ſuch as they are themſelves juſtly and by law entitled unto as Subjects, obeying in their Elections the words, intention, and true meaning of their Sovereign, who did cauſe them to be Elected to come unto his Parliament, with a conſenting, performing and obeying power only, but not an equall, coordinate or Superior; and that it hath been a ruled and allowed caſe thorough all the Nations of the World, and the Ages thereof, that *nemo plus juris dare poteſt quam in ſe ipſo habet.*

And

And however that prudent Prince King *Edward* the *1ſt.* did (for the avoiding of ſome troubles which a remnant of his and his fathers unquiet Barons would have put upon him and his people, whom he was bound to protect,) condeſcend to that Act of Parliament, that no Tallage or aid ſhould be granted, without the conſent of the Archbiſhops, Biſhops, Earls and Barons, Knights, Citizens, Burgeſſes and Freeholders of the land, put himſelf and them under the frailty of the good and kind will and intentions of a part of his ſubjects, yet he could not find either any cauſe or reaſon to doubt or ſuſpect, that they or any of their poſterity ſhould ſo little follow the conduct or manage of their underſtanding, the care of their ſelf-preſervation, and the prevention of the ruine of their private in the publick, as not to ſubmit to that known, and almoſt every where approved rule or Aphoriſme of wiſdom, that *Publica privatis anteponenda ſunt*, and that of the Poet,

Tunc tua res agitur paries cum proximus ardet.

Or that any, if uot an enemy to himſelf, his poſterity and his Country, as much as a Traytor to his King, would in a caſe of publick neceſſity, when every man was as greatly concerned to defend themſelues, their King, Country and poſterities, by a giving giving a timely aid and aſſiſtance, ai if it had been *pro Aris & focis*, and *Hannibal* had been *at Porta's*, have been either forward or backward to gard and relieve themſelves, their King and Country' and not make haſt to imitate the *Romans*, (who at other times Factious and Seditions enough) would not ſuffer the more prudent *Fabious* the preſerver of his and their Country, even in the mioeſt of rheir diſcontents and murmurings that he made no more haſt to fight and beat the enemy, to want their help, either with men or money.

Bornitius lib. 5. ca. 1. Novel. & ca. 10. §. 2.

When as *Bornitius* ſaith, *Quicquid boni homo Civiſq; habet & poſſidet quod vivit, & libere vivit, quod bene, quod Beate, omniumq; rerum & bonorum uſu & interdum etiam copia ad voluptatem utitur. fruitur, totum hoc beneficium Reipublicæ civiliq; ordini acceptum eſt referendum.*

In epiſt. ad Roman. homil. 23.

And that *omnis homo & res ſingularum in Republica conſervari nequeant niſi conſervetur Reſpub. ſive communis adeoq; ſinguli ſui cauſa impendere videntur qnicquid conferunt in publicum uſum.*

And *St Chryſoſtome* was of the ſame opinion when he ſaid, that *ab antiquis temporibus communi omnium ſententia principes a nobis ſuſtinere debere viſum eſt ob id quod ſua ipſorum negligentes*

gentes communes res curare universumq; ſuum otium adeo impendunt quibus non ſolum ipſi, ſed quæ noſtra ſunt, ſalvantur.

And *Zechius* ſaith, *Regi competunt ratione excellentiæ ejus dignitatis quæ Regalia dicuntur*, and that *multa adjumenta ſunt ei neceſſaria ut dominium totum & externa tueri valeat.* *Zechius de principat ad miniſtrione.*

With whom accordeth *Bodin*, informing us, that *Sine majeſtatis contemptu fieri non poteſt, ea res enim peregrinos ad principem aſpernandum & ſubditos ad deficiendum excitare conſuevit.* Bodin *de Rep. l. 6.*

For ſurely it was never rightly underſtood that their Memberſhip of the Houſe of Commons in Parliaments did abridge or leſſen the Superiority of their Sovereign, as may be evidenced by the procedures and affairs of all the Parliaments of *England*, from the beginning of their admiſſion thereunto untill the late unhappy diſtempers thereof.

It having been by long experience Tried and found to be in Government a Policy as ſucceſsfull as prudentiall, to gain in the making of Laws the approbation and good-liking as much as may be of thoſe that are to obey and be guided by them, to the end that they may the more eaſily take effect & be put in execution, and that all occaſions of Envy, Diſlike, Hatred and Calumny, might be taken from the Prince and his Miniſters of State, which adviſed or promoted them; which (as *Zanzini di Recanati* hath reported) was a cuſtom and uſage of our Neighbours the *French*, in and ſince the Reign of their *Charlemayn*, and the ſucceeding Kings untill the Reigns of ſome of their later Kings and Princes. *Zanzini de Recanati de Monarchi de France.*

Which could not be without ſome variations in the Writs of our Kings and Princes Summoning or calling ſome of their Subjects their great Councels or Parliaments, which may be fully evidenced.

SECT. XXV.

Of the many Variations and Alterations of our Kings Writs of Summons to their great Councels or Parliaments, Excluding ſome and taking in others to be aſſiſtant in that high and honourable Court, with its Reſummons, Reviſions, drawing of Acts of Parliament or Statutes by the Judges or the Kings Learned Councel in the Laws and other requiſites therein, neceſſarily uſed by the Sole and Individual Authority of our Kings and Princes.

FOr in the 22. or 23. *E.* 1. the Sheriffs were authoriſed to Elect Citizens and Burgeſſes, which they have ſince uſed to do by their precepts to the Mayors, Bayliffs &c.

The Writ for the City of London, *Anno* 26. *E.* 1. was to Elect two Citizens; another in 29, for 4; 1. *E.* 2. for 2; 32. *E.* 3. no more; *Anno* 34. *E.* 3 to Elect 4; and had uſually Elected, and returned 3 or 4 Citizens to ſerve in Parliament upon ſundry Writs requiring them only to Elect two, as in *Annis* 6. 7. 8. and 15. *E.* 2. *Annis* 1. 6. 9. 11. 12. 14. 20. 21. 22, *E.* 3. and Mr *Pryn's* opinion was that ſuch kind of Elections were made good and effectual only by the ſubſequent allowances of our Kings unto whom all thoſe returns were made, and who in thoſe times determincd all the rights of Elections and numbers of the Knights, Citizens, and Burgeſſes to be elected.

Pryns *brevia Parliamentar. rediviva.* 377. & 378.

And heretofore Burgeſſes only of every Borough in *Dorſetſhire* by aſſent of the reſt elected and returned their Burgeſſes in the County Courts on the day of the Knights election all by one joint Indenture, and ſo continued to do not only in 3. 5. 8. 9. *H.* 5. 7. and 20. *H.* 6. but after the Statute of 23. *Henry* 6. as the Indenture of 33. of *Henry* 6. doth atteſt.

Pryns *brevia Parliamentar. rediviva.* 256.

In 27. *E.* 1. no Judges appear to have been Summoned to that Parliament.

27. *E.* 1. *m.* 3. *ro. claus.*

Nor to another in the ſame Year.

Ro. claus. 27. *E.* 1. *m.* 16. *in dorſo.*

Divers of the Writs of Summons in the Reigns of *Edward* 1. *E.* 2. *E.* 3. did ſpecify the cauſes of Summoning the Parliament, but for the moſt part they were generall, as at this day, and none ſpeciall after the 7th Year of the Reign of *Richard* 2. The Parliament being prorogued, for that the King could not be preſent the ſame day, new Writs of Summons have been antiently ſent forth, and another day appointed as in 6. *E.* 1. 23. *E.* 1. 11. *E.* 2.

Elſing's *ancient & preſent manner of holding Parliaments in* England. 9.

Edward the Firſt in the Thirty Third Year of his Reign having Summoned a Parliament to meet at *Weſtminſter die Martis in quindena Purificationis beatæ Mariæ Virginis proximo pro quibuſdam negotiis regnum ſuum Angliæ nec non & ſtabilimentum terræ ſuæ Scotiæ* directing his Writ to *Edward* Prince of *Wales* his Son, *& aliis Magnatibus & proceribus Regni ſui* to be there *tractatur, & concilium ſuum impenſur.* did the 22d day of that *January* direct other Writs unto them, declaring that at that day *propter aliqua impedimenta legittima poſtmodum a latere emergentia ibidem commode intereſſe non poſſumus quod nos tædet vobis mandamus quod die dominica proxima poſt feſtum ſancti Mathei Apoſtoli proximo futuri ibidem perſonaliter interſitis nobiſcum ſuper dictis negotiis tractaturi & hoc nullatenus omittatis.*

33. *E.* 1. *m.* 12. & 21. *ro. claus. in dorſo.*

And in the ſame Year added a clauſe in the later end of his Writs

Writ of Summons, *et habeas ibi nomina prædictorum militum Civium et Burgenſium et hoc breve & ſcire facias eiſdem quod propter arduitatem negotiorum prædictorum & celeriorem expeditionem eorundem volumus primo die Parliamenti perſonaliter intereſſe per quod nolumus nec intendimus aliquem ad dictum Parliamentum Summonitum quod eodem primo die perſonaliter non interſit habere ullo modo excuſatum, &c.*

In the 34th Year of his Reign Summoned the Earls and Barons to come to a Parliament *ad tractanduu de & ſuper auxilio ad Edwardum primogenitum filium Regis militem faciendum.* 34. E. 1. ro. claus. in dorſo.

In the 35 Year of his Reign having Summoned a Parliament to be holden at *Caerliſle in Octabis Sancti Hillarii* in expectation that *Petrus Sabinenſis Epiſcopus* a Cardinal of the Church of *Rome* and a Legate of the Popes, whoſe Predeceſſor or himſelf had been a great Agent againſt him and his father for the Pope, the Kings of *France* and the unquiet part of the Ba onage (in the ſad Afflictions of the Crown) would be there againſt that time. 35. E. 1. ro. claus. m. 13. in dorſo.

Et idem Cardinalis came not to him to *Carliſle* untill the Sunday after Mid-Lent called *Paſſion Sunday, quæ nunc inſtat* did afterwards,

The 22d of *February* then next following, Send his Writ to *Thomas* Earl of *Lancaſter* his Nephew a man of great power and Eſtate, and a darling of the People, Commanding him *in fide & dilectione quibus tenetur firmiter injungentes quod dictis die & loco modis omnibus perſonaliter interſitis nobiſcum ſuper præmiſſis habituri colloquium & tractaturi veſtrumq ; Concilium impenſuri & hoc ſub foriffactura omni quæ nobis foriffacere poteritis nullatenus omittatis.*

Et eodem modo ſcribitur Epiſcopis & aliis Baronibus.

King *Edward* the 2d his Son in the firſt Year of his Reign Summoned a Parliament to conſult about his Coronation, burying of his Father, and the Solemnities thereof, and his nuptialls, and commanded the Archbiſhop of *Canterbury* to Summon the Chapter of his Church, Archdeacon and Clergy of his Dioceſs, the Dean and Archdeacon in their proper perſons and the Chapter by one, and the Clergy by two *procuratores idoneos ad faciendum & conſentiendum his quæ tunc de communi concilio faveute Domino ordinari contigerit ſuper negotiis antedictis & hoc nullo modo omittatis.* Ro. claus. 1. E. 2. m. 19. in dorſo.

Eodem modo ſcribitur Epiſcopis Lincoln, London, Ciceſtren, Oxon.

In the 2d Year of his Reign the Sheriff of *Yorkſhire* returned a Writ

Writ of Summons to the Parliament that he had according to the Tenor of the Writ made Proclamation that none ſhould come armed to the Parliament.

Some of our Kings after Writs of Summons to ſome Temporal Lords and Biſhops have countermanded them and commanded others to continue at their Charges.

7.E. 2 claus. in dorſo m. 25. In the 7th Year of his Reign a Parliament being called to be holden at *Weſtminſter*, the King underſtanding that *Johannes de Inſula* and ſome others had appointed the Aſſizes to be held in the Biſhoprick of *Durham* and the Northern parts, did within a few days after the appointing of the ſitting of the Parliament ſend his Writ to command him, that omitting his holding of the Aſſizes he ſhould in perſon be at *Weſtminſter* at the day appointed, *& hoc ſicut indignationem noſtram & grave dampnum veſtrum vitare volueritis nullo modo omittatis T. R. apud Windſore 17 die Septembris.*

per breve de privato ſigillo.

8.E.2. m.35. claus. dorſo. In the 8th Year of his Reign ſent his Writ to *Thomas* Earl of *Lancaſter*, that *omnibus aliis prætermiſſis* he ſhould be preſent at the Parliament, wherein amongſt the Barons the Judges and others were Summoned.

per ipſum Regem.

18.E.2. claus. in dorſ. m.15. In the 18th Year of his Reign having Summoned the Earl *Marſhal* to be at a Parliament to be holden at *Wincheſter*, *Secunda Dominica Quadrageſima proxime futura*, and being informed by ſome of the Nobility that by reaſon of the ſhortneſs of time, they could not ſufficiently provide themſelves, did prorogue the Parliament to *Octabis Paſchæ prox. futur.* there to conſult about the Defence of *Aquitaine* and his paſſage.

20. E.2. m.4. re. claus. in dorſ. In the 20th Year of his Reign he Summoned a Parliament to be at *Weſtminſter* to treat with the King, if he ſhould be there, or in his abſence with the Queen and the Prince his Son.

Pryns 4 part of the Regiſter for Parliaments Writs. 309. 318. In the 2d Year of King *Edward* the 3d the Sheriff of *Yorkſhire* ſending his precepts to *Richmond* and *Rippon* to Elect Burgeſſes, they anſwered they were not bound to Elect any, and would avoid the charge of their expences.

In the 3d Year of his Reign *Termino Paſchæ* the Biſhop of *Wincheſter* was Indicted in the Kings bench for departing from the Parliament at *Salisbury*.

4.E. 3. m.22. claus. in dorſ. *Anno* 4. *Edwardi* 3. the King Summoned *Thomas* Earl of *Norfolk* Earl Marſhal of *England* his Uncle to the Parliament with theſe words in the end thereof, *viz. quod ſi quid abſit*

abſit propter abſentiam veſtram dicta negotia contigerit retardari ad vos prout convenit graviter capiemus.

Having called a Parliament to conſult about the affairs of *Acquitain*, and Summoned the Archbiſhops, Biſhops, &c. to the aforeſaid Parliament, and a peace by the *French* Embaſſadors being made in the mean time *de aſſenſu Prælatorum Comitum, & Baronum*, did by his Letters (or Writs) ſignify to them his pleaſure that they ſhould not come. 5. E. 3. claus. m. 21. in dorſo.

Commanded the ſame Knights and Burgeſſes that had been at the Parliament at *London, & quibuſdam certis de cauſis receſſerunt* to appear at a Parliament at *Weſtminſter, ſeu alios ad hoc idoneos.* Ro. claus. 5. E. 2. m. 26. in dorſo.

In the 6th Year of his Reign by reaſon of ſome ſtirrs in the North-parts of *England* Summoned a Parliament at *York*, commanding them to be perſonally there, giving them notice *quod propter arduitatem negotiorum prædictorum ceſſante impedimento legitimo præſentia veſtra carere non poſſumus iſta vice.* 6. E. 3. m. 9i in dorſ. ro. claus.

And Summoned the Prelates, and Nobles to a Parliament at the ſame place, and ſignified that he would not admit of any *Proxies*, and the Archbiſhop of *Canterbury* with ſome Biſhops not appearing, to the King's great diſappointment, he did by a Writ of reſummons directed to the ſaid Archbiſhop, 17 other Biſhops, 13 Abbots, 40 *Magnatibus & aliis* therein-named, reciting that he had demanded an ayd and advice of the Prelates, Peers, and Knights of the ſhires then preſent, who *deliberato concilio reſponſum dederunt quod in tam arduis negotiis ſine Archiepiſcopi, & aliorum Prælatorum, Magnatum, & Procerum præſentia concilium & aſſenſam præbere non poſſent nec debent*, did earneſtly ſupplicate him to continue and prorogue that Parliament *ad diem Mercurii in Octabis Sancti Hillarii tunc prox. Sequen. & interim ceteros Prælatos, & Proceres tunc abſentes convocari faceremus ac nos quanquam hujuſmodi dilatio nobis damnoſa & periculoſa plurimum videatur eorum petitione in hac parte annuentes Parliamentum prædictum uſque ad Octavas prædict. duximus continuandum ſeu prorogandum ac Prælatis, Magnatibus, Militibus, Civibus, & Burgenſibus injunximus quod tunc ibidem interfuerint quacunque excuſatione ceſſante ac omnibus aliis prætermiſſis ne igitur contingat (quod abſit) dicta negotia ad noſtri & Regni noſtri dampnum & dedecus per veſtri ſeu aliorum abſentiam ulterius prorogari vobis in fide & dilectione quibus nobis tenemini & ſub periculo quod incumbit diſtricte injungendo mandamus quod omni excuſatione ceſſante ſitis perſo-* Ro. Claus. 6. E. 3. m. 2. in dorſo.

naliter apud Eborum. in dictis Octabis nobiſcum & cum cæteris Prælatis, & Magnatibus dicti Regni noſtri ſuper dictis negotiis tractatur. & veſtrum concilium impenſur. ſciatis quod ſi per veſtram contigerit dicta negotia (quod abſit) ulterius retardari diſſimulare non poterimus quin ad vos exinde ſicut convenit graviter capiemus. Teſte Rege apud Eborum. 11. die Decembris.

6. E. 3. N. 7. In the ſame Year on a Saturday, the Houſe of Commons had leave to depart, and were commanded to attend untill the next day on which the Parliament was Diſſolved.

In the ſeveral Parliaments of 6. *Edwardi* 3. and 21. *E.* 3. the cauſe of Summons was declared by thoſe that were appointed to do it by the King's verball Command only and not by any Commiſſion.

Elſing's *ancient & preſent manner of holding Parliaments in* England. In the Year next following Receivers and Tryers of petitions were appointed *par noſtre Seigneur le Roy, & ſon Concill*, which Mr *Elſing* underſtood to be the Kings Privy-Councell.

Pryns *brevia Parliamentar. rediviva.* 382. 11. *E.* 3. an extraordinary Writ of Summons was ſent to the Sheriff of the County of *Stafford* concerning an aid granted by the Clergy of the Dioceſs of *Coventry* and *Lichfield* of 20 *d.* upon every Mark given to the King to free them from the oppreſſion of the laity in violently ſeizing upon their Wools.

14. *E.* 3. The Commons prayed that the Writs to the Sheriffs for the Election of Knights for the ſhires might have the clauſe *que deux miltz valuez Chivalers de Countez ſoient eſleuz & envoyez ad prochein Parliament pour la Commune ſi que nul d'eux ne ſoit Viſcount ou autre Miniſter.*

Which was agreed unto, and in the Summons of Parliament, and Writs for the Electing of Knights of the ſhires was inſerted, that they ſhould Elect *deux Chivalers ceynct des Eſpees de cheſcun Countie pour eſtre en meſme le Parlement*, and thereupon the next Writ was *quod de dicto Comitatu duos Milites gladiis cinctos elegi facias*, which continueth to this day, although many times Eſquires and no Knights are choſen, and by the indulgence of our Kings admitted, when in a *Dedimus poteſtatem* to take a fine it will not be allowed.

Pryns *brevia Parl.* 388. *Eodem Anno* the Sheriff of *Northampton* was commanded *quod venire fac.* to the Parliament *de villa Northampton quatuor de corpore Comitatus ſui, ſex Mercatores de diſcretioribus & ditioribus Mercatoribus villæ & Com. prædictorum cum quibuſdam Magnatibus & aliis de Concilio ſuo ſuper dictis negotiis in brevi ſpecificat eis ibidem plenius exponend. tractaturi, ſuumque concilium impenſuri, ulteriuſque facturi quod*

ibidem

ibidem de communi concilio & aſſenſu contigerit ordinari, and that the Sheriff, as likewiſe the Sheriffs of all the other Counties of *England*, were commanded to certify the names of the *Merchants ſic eligendorum* with a ſevere admonition in the latter end of the ſaid Writ of Summons, *viz. ſciens pro certo quod ſi dicti Mercatores de diſcretioribus & ditioribus ut prædicitur eligendi ad dictos diem & locum non habueris te ab officio tuo amovere teque tanquam expeditionem negotiorum noſtrorum prædictorum impedieras & de impeditione hujuſmodi culpabilem invenire abſque difficultate aliqua faciemus, Teſte Edwardo Duce Cornubiæ, & Domino de Ceſtria filio noſtro chariſſimo Cuſtode Angliæ apud Kennington.*

Elſings *ancient and modern manner of holding Parliaments in England.*

Et Eodem Anno, Strangers have been ſometimes admitted into the Houſe of Peers after a Summons, to be Receivers, and Tryers of Petitions, but did not ſit.

The Commons at the beginning of every Parliament are ſent for out of the Houſe of Commons to come to the Bar of the Houſe of Lords, where the *Lord Chancellor*, if he be preſent, or in his abſence one of the Lord Chief Juſtices, or an Arch-Biſhop of *Canterbury*, and ſometimes the Lord Treaſurer, and in 9. *H.* 6. *Linwood* a Doctor of Law in the ſickneſs of a Lord Chancellor, declared in the behalf of the King or his Lieutenant the cauſe at large of the Summons of Parliament, commanded them to elect and preſent their ſpeaker, the Writs of Summons making ſometimes a ſhort mention thereof, and many times none at all: In 17th, *E.* 3. the cauſe of Summons was begun to be declared by the Chancellor, but purſued by *St Bartholomew Burghurſt* (concerning the Kings Actions in *France*.)

Elſing 174. & Mat. Parker *antiquitates Eccleſiæ Britanniæ.*

15. *E.* 3. The King denied the Arch-Biſhop of *Canterbury* to come into the Parliament-Houſe untill he had anſwered certain Articles objected againſt him in the Exchequer, and then alſo refuſed him entrance, untill at the laſt at the interceſſion of the Lords, he was admitted.

Ro. clauſ. 16. *E.* 3. *m.* 13. *parte* 2.

In *Anno* 16 of his Reign Prince *Edward* his ſon Duke of *Cornewall* and *Cuſtos regni*, with others of the Councell ſummoned a Parliament in his fathers name, to grant him an aid, being then in his Wars beyond the *Seas*.

Ro. claus. 18. *E.* 3. *parte prima. m.* 14. *in dorſo.*

The King in the 18th year of his Reign ſent his Writs of Summons to a Parliament to treat of the affairs of the Kingdom, with theſe words, *nobiſcum ſi præſentes fuerimus ibidem, ſeu cum deputandis a nobis ſi abeſſe nos contigerit.*

Eodem Anno, Writs were iſſued for the Electing of two Knights for every County without mention of any Citizens

or

Pryns *brevia Parliamentar. rediviva.* 143. 144.146.148. 150.166.231. 360.

Burgeſſes, and in ſome no *manucaptors* for the Elected retorned, and were to appear at *London*, but before the day appointed come, another Writ came to appear at *Sarum*.

Eodem Anno, The King being offended at the ſmall appearance of the parliament, on *Monday* commanded it to be adjourned untill the next day.

The Receivers and Tryers being named, becauſe the prelates and other grandees were not come, on *Tueſday* the parliament was adjourned untill the *Thurſday*, on which day the cauſe of Summons was declared.

20. *E.* 3. On *Fryday* the Commons delivered in their petitions, which were conſidered by the Lords upon *Saturday*, *Sunday* and *Monday*, next following, and on that *Monday* they were Diſſolved.

20 *E.* 3. *m.* 11

In the 21ſt Year of his Reign he declared in his Writs to Summon that parliament, that he did call them not to give him Money, or Supplies, but only to enquire after wrongs done to the people.

Ro. claus. 21. *E.* 3. *parte* 2. *m.* 9. *in dorſo.*

Eodem Anno, the Commons having long continued together, deſire an anſwer to their Bill, *& leur deliverance.*

Ro. parl. 21. *E.* 3.

Anno 24. *E.* 3. The King ſending his Writs to Elect 2 Knights of every County and 2 Burgeſſes of every City and Borough cauſed a Clauſe to be inſerted that none ſhould be *placitatores querolarum manutentores aut ex hujuſmodi quæſtu vincentes.*

Ro. claus. 24. *E.* 3. *m.* 3.

In 26. *E.* 3. the King iſſued out Writs to the Sheriffs of every County in *England* to elect one Knight for every County to come to the parliament, and ſent his Writs to the Mayors, and Bailiffs of Burgeſs Towns (not to the Sheriffs as at other time) to retorn 1 Citizen for every City, and 1 Burgeſs for every Borough, except *London*, whoſe Sheriffs were commanded to Elect 2 Citizens, giving the reaſon why no more then 1 for other places, *ut Homines ab iſta occupatione Audumpnalo quo nirus poſſimus retrahomus.*

In Rundell *brium.* 26 *E.* 3.

Anno 27. *E.* 3. Sent hrs Writs to the Sheriff to Elect *de aſſenſu Com.* only 1 Knight and to the Sheriffs of *London*, the Mayor and Bayliffs of all other Boroughs that uſed to ſend Burgeſſes to Parliament to Elect and retorn 2 Citizens and *B*urgeſſes apiece for the *S*tatute of the *S*taple made in the ſame year *ca.* 3. hath theſe words, *viz.* Whereas good deliberation had with the Prelates, Dukes, Earls, *B*arons, and great men of the Country, that is to ſay, of every County one for all the Countys and of the Commons of Cities and *B*oroughs.

Anno

Anno 28. *E.* 3. the cauſe of Summons was firſt declared before the names of the Receivers and Tryers were publiſhed.

Eodem Anno, the King iſſued his Writs to all the Sheriffs of *England* to cauſe 2 Knights of every Shire to come to the Parliament at *Lincoln* to confirm the perambulation of the Forreſts, and particularly enjoyned to Summon the Knights Elected the laſt Parliament, but if dead or unable to come to Elect others in their places, and the Sheriff for *Oxford* and *Barkſhire* receiving only a mandate to elect Knights for *Oxfordſhire*, did notwithſtanding return two for *Berkſhire* in this manner, *Et quia Com. Berks. eſt in ballia mea licet perambulatio in eodem facta fuit & obſervata pro eo quod in iſto brevi continetur quod colloquium in Parliamento tractandum erit Super aliis negotiis præfatum Regem tangentibus, Ideo gratis elegerunt duos milites quorum nomina, &c.* Pryns *brevia Parliamentar.*

Anno 29. *E.* 3. the Chief Juſtice declared that the Kings pleaſure was that the Cauſe of Summons ſhould be declared by *Mounſieur Walter de Manny*, and ſo it was, yet the Chief Juſtice managed the Parliament buſineſs in the Houſe of Peers as Speaker, for preſently after *Mounſieur de Manny's* diſcourſe, he called the Commons to adviſe thereof and make ready their Petitions.

In the 34 year of his Reign ſent his Writs to all the Sheriffs to cauſe to appear in Parliament all Collectors of the Tenths and Fifteenths granted to him in Parliament for paying his Forces by Land and Sea for the Kingdoms defence, to be reſtored again to the payers, in caſe no ſuch expences ſhould be made, and all Arrayers of Souldiers to give an account of all Moneys received and diſburſed by them, for that the Soldiers and Mariners were not paid. Pryns *brevia Parliamentar. edition.* 369.

And to appoint one honeſt man out of every County to come along with them to ſee and examine their accounts.

37. *E.* 3. The cauſe of the Summons was firſt declared before the names of the Receivers and Tryers were publiſhed, according to the uſe at this day and of all Parliaments, ſince 29. *E.* 3. And it is ſaid in the end of the ſhewing the cauſe of the Summons, *Et outre le dit Roy volt que ſi nul ſe ſent greever mett avent ſon petition en ce Parlement & ci ne avoir convenable report & ſur ce ad aſſignee aſcuns de ſes Clercks en le Chancellarie Receivoirs des ditz petitions.*

In eodem Anno Proclamation was made in *Weſtminſter* Hall by the Kings command, that all the Prelates, Lords, and Commons who were come to the Parliament, ſhould with-

draw themſelves to the painted Chamber, and afterwards on the ſame day there being in the ſame chamber the Chancellor, Treaſurer and ſome of the Prelates, Lords and Commons, *Sr Henry Green* the Kings Chief Juſtice told them in *Engliſh* (much of the *French* Language being then made *uſe* of in the Parliament-Rolls and Petitions) that the King was ready to begin the Parliament, but that many of *the Prelates, Lords and Commons, who were Summoned, were not yet come, wherefore he willeth that they ſhould depart aud take their eaſe untill Monday.*

Anno 40. *E.* 3. The Lord Chancellor concluded his ſpeech touching the Summons, The Kings will is, *que cheſcun que ce ſont grievez mett devant ſa petition a ces ſont aſſignez per lui de ces recevoir & auſſi de les triers.*

Six days were not ſeldom allowed for receiving and trying petitions which were ſometimes prolonged two or three days, *ex gratia Regis*, and the reaſon ſuppoſed for ſuch ſhort prefixions, was becauſe the ſitting of Parliaments in former times continued not many days.

Toriton a Town in *Devonſhire* was exempted from ſending of Burgeſſes to Parliament, and ſo was *Colcheſter* in 6. *R.* 2. in reſpect of new making the walls and fortifying that Town for Five Years.

Ro pat. 42. E. 3. part 1. m. 8. E. 3 .2

In divers Writs of Summons of King *Edward* 3. He denied to accept of proxies *ea vice* 6. 27. And 39. *E.* 3. Proxies were abſolutely denied *iſta vice* 6. *R.* 2. And 11. *R.* 2. The like with a clauſe in every of thoſe Writs of Summons *legitimo ceſſante impedimento.*

Anno 45. *E.* 3. *Iſta vice* being omitted a clauſe was added *Scientes quod propter arduitatem (negotiorum) Procuratores ſeu excuſationem aliquam legittimo ceſſante impedimento pro vobis admittere nolumus*, and thereupon the Lords that could not come, obtained the Kings Licenſe and made their proxies, and although at other times they did make Proxies without the Kings Licenſe, yet in ſuch caſes an *Affidavit* was made of their ſickneſs (or ſome other Lawfull impediment) as in 3. 6. 26. And 28. *H.* 8.

Elſings *ancient and modern manner of holding Parliaments in* England. 100. 101. 102. 107.

The antient form and way of ſuch Licenſes in 22d *E.* 3. being in *French* and under the Kings Privy-Seal, as Mr *Elſing* hath declared; and therein the Abbot of *Selby's* Servant was ſo carefull as he procured a *Conſtat* or Teſtimoniall under the Kings Privy-ſeal of his allowance of the ſaid procuration, and another was granted to the ſaid Abbot in 2. *H.* 4. under the ſignet only.

Eodem

Eodem Anno The Parliament having granted the King an ayd of 22 *s.* and 3 *d.* out of every pariſh in *England* ſuppoſing it would fully amount to Fifty Thouſand Pounds, but the King and his Councell, after the Parliament, diſmiſſed, finding upon an examination that the rate upon every pariſh would fall ſhort of the ſumm of mony propoſed for that ſupply, did by his Writs command the Sheriffs of every County to Summon only one Knight for every County and one Citizen and Burgeſs for every City and Borough that had ſerved in the ſaid Parliament for the avoiding of troubles and expences to appear at a Councell to be holden at *Wincheſter* to adviſe how to raiſe the intended ſumm of money. pryns 4 *part of the Regiſter for Parliament Writs.* 288.

Anno 46. *E.* 3. An ordinance being made that neither Lawyer or Sheriff ſhould be returned Knights of the ſhire, the Writs received an addition touching the Sheriff only which continues to this day, *viz. Nolumus autem quod tu vel aliquis alius Vicecomes* ſhall be Elected, but the King willeth that Knights and Serjeants of the beſt eſteem of the County be hereafter returned Knights in the Parliament.

Eodem Anno There was no Judges Summoned to the Parliament. *Ro clauſ.* 46 *E.* 3. *m.* ro: *in dor.*

In *Anno* 50. Some particular Knights were ſpecially commanded by the King to continue in *London* 7 days longer then others after the Parliament ended, to diſpatch ſome publique affairs ordained by Parliament, and had wages allowed for thoſe 7 days to be paid by their Countries. Pryns 4 *part of a Regiſter of Parliament Writs.* *Claus* 50. *E* 3. *m.* 3. *in dorſ. part.* 2.

Some being ſent from *Ireland* to attend the Parliament, a Writ was ſent by the King to *James Boteler* Juſtice of *Ireland* to leavy their expences upon the Commonalty of that Kingdom which varied from thoſe for *England*.

After the bill (which in the uſuall language and meaning of thoſe times, ſignified no more then a petition) delivered the Chancellour, willed the Commons to ſue out their Writs for their fees according to the cuſtom, after which the Biſhops did ariſe and take their leaves of the King, and ſo the Parliament ended. *Ro parl.* 50 E. 3.

Anno 51. *E.* 3. the Prince of *Wales* repreſenting the King in Parliament Sate in the Chair of State in Parliaments after the cauſe of Summons declared by the Lord Chancellour, or by any others whom the King appointeth, he concludes his ſpeech with the Kings Commandment to the Houſe of Commons to chooſe their Speaker, who being attended by all the Houſe of Commons, and preſented by them unto Elſing's *ancient and preſent manner of holding Parliaments in* England. 128.

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ſitting in his Chair of Eſtate environed by the Lords Spirituall and Temporall, hath after his allowance and at his retorn, and not before one of the Kings maces with the Royall armes thereupon allowed to be carried before him at all time dureing the Parliament with one of the Kings *Serjeants* at armes to bear it before him, and to attend him during the time of his Speakerſhip.

Ro. parl. 1. R. 2. N. 137. *Anno* 1. *Richardi* 2. The Parliament beginning the 13th of *October* was from time to time continued untill the 28th of *November* then next enſuing, and the petitions read before the King, who after anſwers given, *fiſt bonement remercier les Prelats, Seigneurs, & Countes de leur bones & graundez diligences faitz entouz l'Eſploit de dites beſognes & requeſtes y faitz pur commun profit & de leur bien & liberal done au liu grantez en defens. De tout le Roialme commandant as Chivaliers de Contes, Citizens, des Citeos & Burgeys des Burghs quils facent leur ſuites pour briefs avoir pour leurs gages de Parlement en manere accuſtumes Et leur donaſt congie de departir.*

Ro. parl. 2. R. 2.

Ro. parl. 5. R. 2. N. 1. 37. 64. 65. In a Parliament of 5. R. 1. there were ſeverall adjournments, and the Knights and Burgeſſes reſorting to, continuing at, and returning, *diverſis vicibus* the Parliament was thrice adjourned from one day to another before it ſate, by reaſon that ſundry Sheriffs had not returned their Writs, divers of the Lords and Commons were not come, and there aroſe a great quarrell betwixt the Duke of *Lancaſter* and the Earl of *Northumberland*, who came attended with many Thouſand armed men of his Tenants and followers to the Parliament, which cauſed the King to adjourn it from *Monday* to *Tueſday*, thence to *Wedneſday*, and from thence to *Saturday*, untill all were come, and the quarrell being pacified betwixt thoſe great Lords from the 8th *Nov.* to 15 *Decemb.* by reaſon of the approach of the feaſt of *Chriſtmas* and the Queens arrival from beyond the Seas for her intended marriage from thence to the 24th of *January* many of them in the mean time returning home thence untill *Monday* following, and from that time untill the 23d of *February*.

Pryns 4 part of the Regiſter of Parliament Writs 354.

30 E. 1. & 5. R. 2. Before the 1ſt Writ of Summons could be executed a 2d came to prorogue that Parliament.

In 7. *R.* 2. a Parliament being Summoned to meet at *new Sarum* on the 20th day of *Aprill* being *Fryday* it was twice adjourned, untill the *Wedneſday* and *Thurſday* following, becauſe divers of the Lords were not come, and many of the Sheriffs had not returned their Writs.

21. *R.* 2. The Parliament was adjourned from *Weſtminſter* to *Shrewsbury*, began the *Monday* next after the Exaltation of the Holy Croſs at *Weſtminſter*, and at *Shrewsbury* the 15th of *St Hillary*.

In 1*ſt H.* 4. The Writ for the Election of Commons had this clauſe, *Nolumus autem quod tu ſeu aliquis alius Vicecomes Regni noſtri ſeu aliquis alius homo ad legem aliqualiter ſit electus* whence it was called the Lay-mans Parliament or *indoctum Parliamentum*.

Elſings *ancient and modern manner of holding Parliaments in* England. 59. 60. 61.

By the *S*tatute of 7 and 8. *H.* 4. a clauſe was added in the Writ, *Et electionem tuam in pleno Comitatu tuo factam diſtincte & aperte ſub ſigillo tuo & ſigillis eorum qui electioni illi interfuerunt nobis in Cancellaria noſtra* (not into the Houſe of Commons or Houſe of Peers) *ad diem & locum in brevi contentum certifices indilate.*

The Receivers and Tryers of petitions in Parliament which were nominated in the beginning of every Parliament, were Prelates, Nobles, and Judges, and ſometimes the Lord Chancellour and Treaſurer; and if need required antiently the Clerks of the Chancery.

In two Parliaments of King *Henry* the 6th the Chancellours place was ſupplied by the Kings verbal Authority.

In 9. *H.* 6. The Chancellour to whom it appertained, *ratione officii ſui* to declare the cauſe of the Summons of Parliament, being ſick, the Duke of *Glouceſter* the Kings protector appointed Dr *Linwood* (a Doctor of Civill and Canon Law) to declare the cauſe of the Summons of that Parliament.

In the Title of the Act of Parliament 18. 23. 27. 31. 33. *H.* 6. & *E.* 4. And 14. *E.* 4. It is mentioned to be by the advice and aſſent of the Lords Spirituall and Temporal, and the Commons, and in 20. *H.* 6. By the advice of the Lords Spirituall and Temporall, and at the requeſt of the Commons as it had been in the 25 of *H.* 6. where *Briſtoll* was exempted by a Charter of King *Henry* the 6th from ſending any more then 2 *Homines* or *Burgeſſes* to Parliaments. 25. *H.* 6.

7 or 8 Ports Summoned and in like manner admitted by the only Writ to Summon the *Cinque Ports*.

1. *H.* 7. Acts of Parliament were mentioned to have been made by the aſſent of the Lords *S*pirituall and Temporall and Commons. 2. *H.* 7. By the advice of the Lords *S*pirituall and Temporall and Commons, In 3 & 4. *H.* 7. the like. 11. *H.* 7. By the aſſent of the Lords *S*pirituall and Temporall and Commons. *Anno* 12 the like. 19 the like.

In the 1. 3. & 4. *H.* 8. Acts of *P*arliament were ſaid to have been made by the aſſent of the Lords Spirituall and Temporall and Commons, and in 5. 6. 7. 14. 15. & 23. *H.* 8.

1. *H.* 8. The Abbot of *Crowland* was licenſed to be abſent by the Lord *Chancellour* and Lord *Treaſurer* ſignifying the Kings pleaſure.

And howſoever that the Kings verbal licenſe was ſufficient, yet thev that had obtained that favour had for the moſt part a formal licenſe under his hand, and if not ready to be produced teſtimonialls thereof by ſome Lord or others that could witneſs it.

And ſo continued untill 28 or 31. *H.* 8. But afterwards neither licenſes or teſtimonialls were required, only it ſatisfied that the proxies or procurations mentioned the Kings licenſe, which no man could be preſumed to do unleſs he had had it.

Elſing's *ancient and preſent manner of holding Parliaments.*

Anno 1. *Henrici* 8. E*x mandato Domini Regis Quia Domini Spirituales abſentes & in convocatione occupati ſunt continuavit Parliamentum uſque in diem Craſtinum* (the Lord Chancellor being then a Biſhop and abſent alſo) and although ſome one or two of the Temporall Lords then ſate in the Houſe of *P*eers it was but to receive Bills.

Which continued untill 7. *H.* 8. In which Year the Lord Chancellour did the day before continue the *P*arliament unto the day after.

7. *H.* 8.

In the ſame Year 30 *November Dominus Cancellarius propterea quod Domini Spirituales in convocatione in craſtino die occupandi continuavit præſens Parliamentum uſque in diem lunæ*, and many of the *P*arliament Rolls and Journalls of King *Henry the 8th* being not to be found.

And from the 17th *H.* 8. untill the 25th there does not appear to have been any Journalls, although ſeverall *P*arliaments ſate in the 21. 22. 23. & 24 Years of his Reign.

20. *H.* 8. No mention was made of the advice or conſent of the Lords *S*piritual and Temporall, or Commons.

The like in 25 and 26. 27. 28. & 31. *H.* 8.

25. *H.* 8. There is a *memorandum* in the Journalls of the Houſe of *P*eers *Decretum eſt quod Domini Spirituales in convocatione diebus Martis & Veneris prox. ſequen. & ex tunc die Veneris* (*donec ſecus melius videtur*) *verſari poſſent, & proceres ſequentibus diebus ſine impedimento quotidie circa dimidietat horæ octavæ ante meridiem in locis conſuetis ſimul convenirent ad tractandum & conſulendum circa Republicæ negotia.*

And

And after in the ſame *Parliament* the *Fryday* was changed into the *Wedneſday* in every week.

Eodem Anno In the Reign of *H.* 8. *Wedneſday* being a *Starr-Chamber* day, and *Friday* a convocation of the Biſhops of the houſe of Peers was by the Chancellor adjourned to the *Saturday* following, and in *Queen Elizabeths* days when the *Starr-Chamber* days were ſetled to be upon *Wedneſdays*, the *Parliament* did not ſit upon thoſe days in the Term time, which was conſtantly obſerved ſays Mr *Elſing* all the time of King *James* untill the 18th Year of his Reign, when upon *Tueſday* the 24th day of *Aprill* upon a motion made in the Houſe of Peers that there was a great cauſe in the middle of hearing to be heard in the Starr-Chamber the morrow after, the Lords were content not to ſit that Morning, provided that it be not drawn into a precedent, but that the Houſe being the Supream Court may ſit upon a *Starr-Chamber* day notwithſtanding the abſence of the Lord Chancellor, Archbiſhop of *Canterbury*, Lord Treaſurer, the Lords of the Privy-Councell, great Officers of State, the two Lord Chief Juſtices and Lord Chief Baron, who do uſe to attend that Court, and the next Starr-Chamber day the other part of the Lords Houſe did ſit in the forenoon.

Elſings *manner of ancient and preſent Parliaments in* England 94. & 95.

Idem ibidem 96. 97. 98.

The Lords that were abſent and could not appear upon Summons of Parliament were excuſed if they could obtain a licenſe of the King, otherwiſe they were *amerced*, as in 31. *H.* 6. a Duke was to be *amerced* 100 *l.* an Earl 100 Marks, and a Baron 40 *l.* If they came not upon Summons to Parliament.

If the King be preſent in perſon, when the cauſe of Summons is declared, the Lord Chancellour doth firſt remove from his place, which is on the Kings Right hand behind the Chair of Eſtate, and conferreth privately with his Majeſty.

And that ceremony is ever to be obſerved by the Lord Chancellour, or thoſe that are appointed by the King to officiate in that particular for him before he ſpeak any thing in Parliament when the King is preſent.

The cauſe of which ceremony ſaith Mr *Elſing* ſeeming to be, that as none but the King can call a Parliament, ſo none but the King can propound or declare wherefore it was called.

If the King be repreſented in Parliament by Commiſſion the Lord Chancellor ſits on the Wool-ſack after the Commiſſion read, the Commiſſioners go to the ſeat prepared for them on the Right ſide of the Chair of Eſtate, then the Lord Chancellour

Chancellour ariſeth, conferreth with the Commiſſioners, returns to his place on the *Wool-ſack*, and there declareth the cauſe of the Summons (or Commiſſion) as was done in 28 *Elizabeth.*

The Warrants of the King for the making of the Writs of Summons to Parliaments have been divers ſome times, *per breve de privato ſigillo*, but commonly *per ipſum Regem & concilium.*

Anno 32. *H.* 8. Acts of Parliament were ſaid to have been enacted with the aſſent of the Lords Spirituall and Temporall, and the Parliament was continued by divers ſhort prorogations, and was by his Graces Authority diſſolved.

33. *H.* 8. In the Acts of Parliament no mention was made of advice or aſſent.

34. & 35. *H.* 8. The like.

Elſings *ancient and preſent manner of holding Parliaments in* England. 104. 105. 106. 107. 111. 112. *and* 113.

Proxies were in the 20th Year of the Reign of King *James* under the hand and ſeal of an abſent Lord upon a lawfull impediment ſignifying the Kings licenſe, in the form enſuing, *pro ſe & nomine ſuo de & ſuper quibuſcunq ; cauſis exponend. ſeu declarand. tractand. tractatibus quæ hujuſmodi mihi factis ſeu faciendis concilium nomine ſuo impendend. ſtatutiſq ; etiam & ordinationibus quæ ex maturo & deliberati judicio dominorum tam ſpiritualium quam temporalium in eodem Parliamento congregat. inactitari ſeu ordinari contigerint nomine ſuo conſentiendum eiſdemq ; ſi opus fuerit ſubſcribend. cæteraq ; omnia & ſingula quæ in præmiſſis neceſſaria fuerint ſeu quo modo libet requiſita faciend. & exercend. in tam amplis modo & forma prout ego ipſe facere poſſem aut deberem ſi præſens perſonaliter intereſſem ratum & gratum habens & habiturus quicquid dictus procurator ſtatuerit aut fecerit in præmiſſis.*

A proxy cannot be made to a Lord that is abſent himſelf.

The Lord *Latimer* made his proxy, which although the Clerk of the Houſe of Peers received, it was repealed by the Lord *Chancellour*, for that the Lord *Latimers* deputy or procurator was abſent; for if he to whom the proxy is made be abſent, the proxy is void, neither can it be transferred by the proxy to another, as was adjudged in the caſe of the Lord *Vaux*, 18. *Jacobi.*

Our Kings (ſince the force put upon King *Henry* the 3*d* by ſome Rebellious Barons at a Parliament at *Oxford* in *Anno* 42 of his Reign) at the beginning of every Parliament by publick proclamation did uſe to prohibit the coming with Arms.

Not

Not any of the Kings *Serjeants at Law* were Summoned to Parliament untill the Tenth of *Edward* the Third, when *Robert Parning*, *William Scot*, and *Simon Treviſe Servientes Regis* were Summoned by ſpecial Writs unto 2 Parliaments, after which none were Summoned untill the 20th of *E.* 3. *Ro. clauſ.* 10. *E.* 3. *M.* 1. & 5. *in dorſo.*

Robert de Sodington Capitalis Baro Scaccarii was the Firſt and only Baron of the Exchequer who was Summoned to Parliament as one of the Kings Councell in 12. *E.* 3.

The Kings Attorney Generalls (whoſe Office and imployment was as ancient as 7. *E.* 1. when *William de Giſilham* enjoyed it, and *Gilbert de Thorneton* was in 8. *E.* 1. his Attorney Generall) had their Firſt Writ of Summons in the 21. 30. & 36. *Henrici* 8. Thoſe that ſucceeded them never wanting the like priviledges. *Dugdales Originis Juridiciales.*

And the Kings Sollicitors generalls have been in like manner Summoned. *Sr* John Pettus *Collections.*

The Writs of Summons to the Lords are returned and delivered to the Clark of their Houſe, thoſe with their Indentures for the Election of members for the Houſe of Commons to the Clark of the Crown in *Chancery*.

The Clergy of the convocation in Parliament are Elected by virtue of the Kings Writs of Summons to the Biſhops and their precepts but not by any from the Sheriffs.

The Maſter of the Rolls if not Elected a Member of the Houſe of Commons in Parliament hath a Writ of Summons to attend in the Houſe of Lords.

The Maſters of Chancery as neceſſarily appertaining to the Lord Chancellour, or Keeper of the Great Seal of *England* have neither Writ nor patent, yet do there attend.

The Bill or Act of Parliament ſigned for the Beheading the Earl of *Strafford* much againſt the will of King *Charles* the Martyr was by Commiſſion.

And divers adjournments, and prorogations in the Reign of King *Charles* 2d have been ſometimes by Commiſſion and at other times by proclamations.

The Commons were never Elected to come to Parliament before the 49th Year of King *H.* 3. and his impriſonment, and then and from the 21*ſt* Year of the Reign of King *E.* 1. did but as the Leſſer lights follow that greater of the Sun, and could not poſſibly be ſent for, or cauſed to be Elected without the Peers then Summoned and convened, for that they were only to conſent unto, and do ſuch things as the King by the advice of the Lords Spirituall and Temporall ſhould there ordain, if the Lords were not Summoned to be

there at the ſame time or ſitting.

The Chamberlain of the Kings Houſhold was Summoned to ſit in the Houſe of Peers in 25. 27. & 28. *E.* 3.

Maſters of Ships, and ſome *Scots* have for advice been Summoned to attend the Houſe of Lords.

Ever ſince the making of the Statute of 5. *Eliz.* every Knight, Citizen, Burgeſs, and Port Baron Elected, or to be Elected to be a Member of the Houſe of Commons in Parliament is to take before he be admitted to ſit therein, or have any voice as a Knight, Citizen, or Burgeſs of or in the Houſe of Commons an Oath upon the *Evangeliſts* before the Lord Steward or his deputy, that he doth teſtify and declare, *That the Queens Majeſty, her Heirs, and Succeſſors, is the only Supream Governour of this Realm, and of all other her Highneſs's Dominions, and Countries as well in all Spirituall and Eccleſiaſticall things or cauſes as Temporall, and renounce all Foreign Juriſdiction of any Foreign Prelate, Prince, or Potentate whatſoever.*

5. Eliz. ca. 1. & 1. Eliz. ca. 1.

Oath of Supremacy.

And promiſe that from henceforth he ſhall bear Faith, and true Allegeance to the Queens Highneſs, her Heirs and Succeſſors, and to his power ſhall aſſiſt and defend all Juriſdictions, Privileges, Preheminencies, and Authorities, granted, or belonging to the Queens Highneſs, her Heirs, and Succeſſors, or united, and annexed to the Imperiall Crown of this Realm.

Oath of Allegiance.

Queen *Elizabeth* in the 31ſt Year of her Reign did by the advice of her Privy-Councell and of the Juſtices of both her Benches and other of her learned Councell, prorogue and adjourn the Parliament from the 12th of *November* 1588. to the fourth of *February* then next following, from which day it was continued till the *Thurſday* following *poſt meridiem.*

Journals of the 4 laſt parliaments of Q. Elizabeth Collected by Heywood Townshend a Member thereof.

Wherein divers of the Biſhops, Earls, Barons, Juſtices and maſters of Chancery were Receivers and Tryers of petitions.

The Biſhops, all but 7, named each of them 2 Proctors, 7 Temporall Lords ſent their proxies.

Such as were meer attendants in the Houſe of Peers were ſometimes made joint Committees with the Lords in ſeverall matters.

The Commons preſenting their Speaker to the Queen, he was admitted with a caution not to uſe in that Houſe irreverent Speeches, or to make unneceſſary addreſſes to her Majeſty, and the Chancellour by Command of the Queen *continuavit præſens Parliamentum uſq; diem Sabbati prox. hora nona.*

When

When the Lords ſent to pray a conference with the Commons and it is aſſented unto, one of the Judges were allways named to attend the Lords Committees.

In a bill for ſetling a jointure for the Wife of *Henry Nevill* Eſq. Wherein all former conveyances were to be cancelled, the Lords ordered that the deeds ſhould be ſealed up, and brought into their houſe, to the end that they might be redelivered again uncancelled, in caſe the Queen ſhould refuſe to ſign the Act of Parliament; the Houſe of Commons by their Speaker deſired her Majeſties aſſent to ſuch Statutes as had been provided by both Houſes.

Upon her gracious generall Act of Pardon *les Prelats, Seigneurs & Commons en Parlement en nom de toutes voz autres Subjects remercient tres humblement voſtre Majeſte.*

The Queens Sollicitor generall being Elected a Member of the Houſe of Commons in Parliament, they deſired the Lords that he might come into the Houſe of Commons and ſit with them, which was aſſented unto and performed.

In the Year 1588. and 31ſt of her Reign, when ſhe had moſt need of her Subjects aid and good will, upon the Petition of the Commons againſt ſome grievances of the Purveyors and her Court of Exchecquer, ſhe anſwered by their Speaker, *that ſhe had given orders to her Lord Steward to redreſs any Complaints of her purveyance, and that ſhe had as much skill and power to rule and govern her own Houſe as any of her Subjects whatſoever to rule and govern their's without the help of their Neighbours*, and would very ſhortly cauſe a collection to be made of all the Laws already made touching Pourveyance and of all the conſtitutions of her Houſhould in that caſe, and would thereupon by the advice of her Judges & learned Councell ſet down ſuch a formall plot (or method) before the end of that preſent ſeſſion of Parliament, as ſhould be as good & better for the eaſe of her ſubjects, then what the houſe had attempted without her privity, & in which they would have bereaved her Majeſty of the honour, glory and commendation thereof, and that ſhe had in the 10th year of her Reign cauſed certain orders and conſtitutions to be drawn for the due courſe of ſuch things in her Court of *Exchequer* as her Subjects ſeem to be grieved at; And ſo after a Generall Pardon and ſome bills paſſed, the Lord Chancellour by her Majeſties command diſſolved the Parliament. *Idem ibidem.* 24. & 25.

Anno 35th. the Lord Keeper by her Majeſties command declared the neceſſity of publick aides, how little the Late Subſides amounted unto by Reaſon of the ill gathering; deſired

ſired the time might not be Miſpent in long orations, Speeches and verboſities which ſome men took delight in, Receivers and Tryers of Petitions were named and ſome Proxies delivered.

Fo. 35. 37. & 38. Their Speaker Sr *Edward Coke* in his Speech remembred the Queen of her ſpeech to the laſt Parliament that many came thither *ad conſulendum qui neſciunt quid Sit conſulendum* and prayed that ſhe would give her aſſent to ſuch Bills as ſhould be agreed upon ;

The Lord Keeper in his reply alleadged that to make more laws might ſeem Superfluous, and to him that might ask *Quæ cauſa ut creſcunt tot magna volumnia legum ?* It may be anſwered in *promptu cauſa eſt creſcit in orbe malum.*

And after upon further inſtructions received from her Majeſty declared that Liberty of Speech was granted, but how far was to be thought on ; *there be two things of moſt neceſſity wit and ſpeech*, the one *exerciſed in invention, the other in Speaking, priviledge of ſpeech is granted, but you muſt know what priviledge you have, not to ſpeak every one what he liſteth, or what cometh in his heart to utter, but your priviledge is to ſay yea or no ; wherefore Mr Speaker her Majeſties pleaſure is that if you perceive any idle heads, which will not Stick to hazzard their own eſtates, which will meddle with reforming of the Church and transforming of the Common-Wealth, and do exhibit any bills to ſuch purpoſe, that you receive them not untill they be viewed and conſidered of, by thoſe who it is fitter ſhould conſider of ſuch things, and can better judge of them.*

The daily continuing or adjorning of the Parliament was *Dominus Cuſtos magni Sigilli continuavit præſens Parliamentum.*

Idem ibidem. 40. 47. After a bill for ſetling the lands and Eſtate of Sr *Francis Englefeild* attainted of high Treaſon in Parliament had been ordered by the Houſe of Commons to be ingroſſed, the Lords did hear Councell on the part of *Englefeilds* heirs, and afterwards paſſed it.

In the caſe of repealing of certain uſes in a deed concerning the Eſtate of *Sr Anthony Cook* of *Rumford* in the County of *Eſſex* after the bill had been 3 times read in the Houſe of Lords and aſſented unto, a Proviſo was added of Saving the *Queens right* with a note entred that it ſhould not hereafter be uſed as a præcedent.

Acts or bills of Generall pardon do paſſe both Houſes with once reading.

The

The Lord-Keeper by her directions ſignified to the Speaker of the Houſe of Commons, that in ſome *things they had ſpent more time then* needed, but *ſhe perceived ſome men did it more for their ſatisfaction, then the neceſſity of the thing deſerved. Miſliked that ſuch irreverence was ſhewed towards her Privy Councellors* (who were not to be accompted as Common Knights and Burgeſſes of the Houſe, that are Councellors, but during the Parliament) *whereas the others are ſtanding Councellors, and for their Wiſdom and great ſervice are called to the Councell of State.*

Had heard that ſome men in the caſe of great neceſſity and aid had ſeemed to regard their Country and made their neceſſities more then they were, forgetting the urgent neceſſity of the time, and dangers that were now eminent, ſhe would not have the people feared with reports, charged them that the Trained Bands ſhould be ready and well ſupplied, thanked them for their ſubſidies, and aſſured them that if the Coffers of her Treaſure were not empty, and the revenues of the Crown and other Princely ornaments could ſupply her wants and the charge of the Realm, ſhe would not in the words of a Prince have now charged them, or accepted what they gave.

After which the Queen ſitting in her Chair of State, amongſt other things ſpeaking of the injuſtice of the King of *Spains Wars and the Juſtice of her own, ſaid, I heard ſay that when he attempted his laſt Invaſion, ſome upon the Sea coaſt forſook their Towns, flew up higher into the Country, and left all naked and expoſed to his entrance, but I ſwear unto you by God, if I knew thoſe perſons, or any that ſhall do ſo hereafter, I will make them know and feel what it is to be ſo fearfull in ſo urgent a cauſe.*

Declared unto them that the ſubſidy which they gave her was not ſo much but that it is needfull for a Prince to have ſo much allways lying in her Coffers for your defence in time of need, and not to be driven to get it, when we ſhould uſe it. Idem ibidem. 49. 54. 62. 63.

Upon which the Clerk of the Parliament having read the Queens acceptance and thanks for the ſubſidies given, did upon the reading of the pardon pronounce the thanks of the Houſe in theſe words, *les Prelates Seigneurs & Communes en ce Parlement aſſembles au nom de toutz vous autres Subjects remercerent tres humblement voſtre Majeſty & prient a Dieu que il vous donne en ſante bonne vie & longue.*

The aſſent of the Sovereign is never given to a bill of ſubſidy becauſe it is the guift of the Subject, nor to an Act of generall pardon, for that is the Kings free guift, after which

ended, followed the diſſolution of the Parliament in theſe words, *Dominus Cuſtos magni ſigilli ex mandato dominæ Reginæ tunc præſentis diſſolvit præſens Parliamentum.*

The names of the Knights, Citizens and Burgeſſes are at the beginning of the Parliament delivered to the Clerk of the Crown (who always attends in the Houſe of Lords) and entred into his book.

After the Lord Keepers ſpeech ended her Majeſty calling him unto her commanded him to give the Lower *Houſe* Authority to chooſe their Speaker and preſent him the *Thurſday* following, unto which day he adjourned the Parliament.

At which day Sr *Edward Coke* Knight being choſen and admitted *S*peaker, the Queen allowed his petitions for acceſs unto her Majeſty, privileges and liberty of ſpeech, *with a caution that they ſhould not ſpeak irreverently either of the Church or State*, and then the Lord Keeper by the Queens command adjourned the Parliament untill the *Saturday* following.

When the Houſe of Commons being again aſſembled Mr *Peter Wentworth* and *Sir Henry Bromley* delivered a petition to the Lord Keeper, therein deſiring the Lords of the Upper Houſe to be ſupplicants with them of the Lower unto her Majeſty *for the entailing of the Succeſſion to the Crown, whereof a bill was ready prepared.*

With which her Majeſty being highly diſpleaſed charged the *Councell* to call the parties before them, whereupon Sr *Thomas Heneage* ſent preſently for them, *commanded them to forbear going to the Parliament* and *not to go out of their ſeverall lodgings*, and the day after they were called before the Lord *Treaſurer Burleigh*, the *Lord Buckhurſt* and Sr *Thomas Heneage*, who informing them how highly her Majeſty was offended, *told them they muſt needs commit them*, *Mr Wentworth* was ſent priſoner to the *Tower*, *S*ir *Henry Bromley* and one Mr *Stevens* (to whom he had imparted it) and Mr *Welch* the other Knight of the ſhire for *Worceſterſhire* to the *Fleet.*

A bill being offered by Mr *Morris* Attorney of the Court of *Wards* againſt the uſage of Eccleſiaſticall diſcipline by the Prelates, with an intent that the Houſe might be ſuitors to her Majeſty to allow it, he was ſent for to the Court and committed to the keeping of *Sir John Forteſcue* a *Parliament man*; And ſhe ſent for the *S*peaker and by him ſent a meſſage to the Houſe of Commons, which he did not omit to deliver in her very words, *that it was in her and her power to call Parliaments,*

Parliaments, it was in her power to end and determine the ſame, and it was in her power to aſſent or diſſent to any thing done in Parliament.

And her Majeſties pleaſure being by the Lord Keeper delivered unto them, that *it was not meant that they ſhould meddle with matters of State, or cauſes Eccleſiaſticall, ſhe wondred that any ſhould be of ſo high a Commandment to attempt a thing contrary to that which ſhe had ſo expreſsly forbidden, and therefore with this ſhe was highly diſpleaſed, and charged the Speaker upon his Allegeance that if any ſuch bill be exhibited not to receive it,*

An Act was ſent up by the Commons to the Lords who amended ſomewhat therein but what they amend cannot be altered by the Commons, but the Lords will give their reaſons for ſuch their amendment.

The Commons complaining of a Breach of Privilege that the Lord Keeper did in the behalf of the Lords give anſwers unto their meſſages, and did not come down unto thoſe that were ſent to the Bar, after a great debate and much advice and conſultation, it was reſolved that the Lord *Keeper* or Lord *Chancellour ought to ſit in his place covered, when he gave them anſwers, and that if it had been lately otherwiſe done, it was by error and miſtake, but ought not*; which their Lordſhips by Mr *Attorney Generall* and *Serjeant Harris* ſignifying to the Lower Houſe, deſired them to ſend ſome of their Houſe to receive their Lordſhips anſwer, whereunto they ſeemed to aſſent and returned ſome of their Knights and Burgeſſes with thoſe that before demanded ſatisfaction to receive their anſwer, which being declared unto them, they by the mouth of Sr *William Knolles* (one of the Houſe of Commons) proteſted that they had no Commiſſion to receive an anſwer in that form, after which upon a conference betwixt both Houſes upon great debate and arguments, it was reſolved, that *the order and cuſtome of the Houſe of Lords was, that when any Bills or meſſages were ſent to them, the Lord Keeper and ſome of the Lords were to ariſe from their places and from thence to go unto the Barr and receive the ſaid Bills or meſſages; but contrarywiſe when any anſwer is to be delivered by the Lord Keeper in the name and behalf of the Lords, the Commons ſent were to ſtand at the Barr and the Lord Keeper is to receive the Bills or anſwer the meſſages with his head covered, and all the Lords were to Keep their places, with which the Lower Houſe was ſatisfied, and the ſame order hath been ever ſince obſerved accordingly.* P. 91. 93. 94. 95. 101.

Anno

Anno 39. *Eliz.* There being in former times a cuſtom in the houſe of Commons, to have a bill read before the houſe did ariſe, the ſame could not now be done at that time becauſe her Majeſty and the upper Houſe had adjourned the Parliament untill *Saturday* Sennight at Eight of the Clock in the Morning, which being ſignified by their Speaker he ſaid all the Members of the Houſe might depart, and ſo they did.

Eodem Anno. At the ending of the Parliament after they
Ibidem. 127. had given the Queen ſubſidies and prayed her aſſent to ſuch laws as had paſſed both Houſes, ſhe gave the Royall aſſent to 24 publick Acts, and 19 private, but refuſed 48 *Bills*, which had paſſed both the Houſes.

Anno 43. *Eliz. John Crook* Eſq. Recorder of *London* being choſen Speaker of the Houſe of Commons in Parliament diſabling himſelf deſired the Queen to command the Houſe of Commons to chooſe ar other, but his excuſe received no allowance.

The Lord Chief Juſtice of the Queens bench and Common pleas together with the Lord Chief Baron and Attorney Generall were ordered to attend a Committee of Lords and Biſhops.

Sr *John Popham* Lord Chief Juſtice, *Francis Gaudy* one of the Juſtices of the Kings bench, *George Kingſmill* one of the Common pleas, Dr *Carew* and Dr *Stanhop* were conſtituted Receivers of petitions for *Gaſcoigne* and other lands beyond the Seas. *Sr Edmond Anderſon* Lord Chief Juſtice of the Court of Common pleas, Sr *William Peryam* Lord Chief Baron, *Thomas Walmiſley* one of the Juſtices of the Common pleas, *Dr Swale* and Dr *Hone*.

Tryers of petitions of *England*, the Archbiſhop of *Canterbury*, Marquis of *Wincheſter*, Earls of *Suſſex*, Lord *Marſhall*, Lord *Admirall*, and *Steward* of the Queens Houſhold, Earls of *Nottingham*, and *Hertford*, Biſhops of *London*, *Durham*, and *Wincheſter*, Lords *Zouch* and *Cobham* calling unto them the Lord *Keeper*, Lord *Treaſurer*, and the Queens *Serjeants* at Law.

Great fault was found by many of the Houſe of the factouring and bribing of too many of the *Juſtices of the Peace*, and it was by one of the members alleadged, that the five bills lately paſſed againſt Swearing, Drunkenneſs, and for the making of good Ale, would be as much worth to thoſe kind of Juſtices of the Peace as a *Subſidy* and *two Fifteens*.

Mr

Mr *Conisby* Gentleman Uſher of the Houſe of Peers complained that foraſmuch upon the breach of any Priviledge of that Houſe he only was to be employed, and not the Serjeant at *Arms*, the Houſe ordered a Committee to conſider of Preſidents and ſettle it, a motion was made by the Lord Keeper and approved of by the Lords, that the Ancient courſe of the Houſe might be kept by certifying the Excuſes for the abſence of any of the Peers by the Peers and not by others.

The Houſe being offended with Sr *Walter Rawleigh* for ſome words, and crying to the Barr, Mr *Brown* a Lawyer ſtood up and ſaid, Mr Speaker *par in parem non habet Imperium* we are as members of one body and we cannot Judge one another, whereupon it being put to the queſtion, it was reſolved in the negative that he ſhould not ſtand at the Barr.

The Speaker of the Houſe of Commons at the ending of the Parliament of 44. *Eliz.* humbly deſired of the Queen, that certain Acts may be made Laws by her Royall aſſent, which giveth life unto them.

Unto which the Lord Keeper anſwered, that as touching her Majeſties proceeding in the making of Laws and giving her Royall aſſent, that *ſhould be as God directed her Sacred Spirit*, and delivered her Majeſties commandement, that as to the Commons proceedings in the matter of her *Prerogative ſhe is perſuaded that Subjects did never more dutifully obſerve, and that ſhe underſtood they did but obiter touch her Prerogative, and no otherwiſe but by humble petition, but ſhe well perceived that private reſpects are privately masked under publique pretences.*

Admoniſhed the Juſtices of the Peace (ſome whereof might probably be of the Houſe of Commons) that they ſhould not deſerve the Epithetes of prowling Juſtices, Juſtices of Quarrells, who countcd Champerty good Conſcience, Sinning Juſtices who did ſuck and conſume the good of this Commonwealth, and likewiſe all thoſe who did lye, if not all the Year, yet at the leaſt Three Quarters of the Year in the City of London.

Anno 43. *Eliz.* One Mr *Leigh* of the Houſe of Commons complained, that whilſt the Speaker of the Houſe of Commons was preſented to the Queen, he was denyed entrance into the Houſe of Peers, which the Lords excuſed by ſaying it was the ignorance of ſome of the Grooms or attendance, in the chooſing of a Speaker, Mr *Knolls* the Comptroller alleaged that it was not for the State of the Queen to permit a confuſed multitude to ſpeak unto her, when it might often happen that one or ſome might move, or ſpeak that which another, or ſome or many would contradict or not allow.

The Queen being ſate in her State in the Houſe of Lords, the Houſe of Commons were ſent for to preſent their Speaker, who in a modeſt pretence of diſability prayed her Majeſty to command the Houſe of Commons to chooſe one more able but had it not allowed.

And ſhe in her grant of freedom of ſpeech gave a caution not to do it in vain matters, verboſities, contentions or contradictions, *nor to make addreſſes unto her; but only in matters of conſequence, and prohibited their retaining or priviledging deſperate debtors upon pain of her diſpleaſure, and deſired a Law might be made to that purpoſe.*

Which done the Lord Keeper ſaid, for great and weighty cauſes her Highneſs's pleaſure was that the Parliament ſhould be adjourned nntill the *Fryday* following.

At which time the Houſe of Commons did appoint a Miniſter every morning before the Houſe ſate to officiate and uſe a ſet form of prayer ſpecially ordained, to deſire Gods bleſſing upon their Councells *and preſerve the Queen their Sovereign.*

The Ancient uſage of not coming into the Houſe of Commons with ſpurs, was moved by the Speaker to be obſerved, others moved that they might not come with Boots and Rapiers. but nothing was done therein.

Sr *Robert Wroth* a Member of the Houſe of Commons did in his own particular offer 100 *l. per Annum* to the Wars.

Sr *Andrew Noel* Sheriff of *Rutlandſhire* having returned himſelf to be a Knight of the ſhire for that County, *it was adjudged by the Houſe of Commons to be void, becauſe it was againſt the Tenor and exception of the Writ, and that he ought ro be Fined.*

In the debate whither the Speaker ſhould ſend his Warrant to the Clerk of the Crown for the Election of a Burgeſs, it was anſwered by one of that Houſe and not contradicted, that (ſince 26. *Eliz.*) he did *ex officio* ſend his Warrant to the Clerk of the Crown, who is to certifie the Lord Keeper and ſo make the Warrant.

Sr *Francis Haſtings* a member going down the Stairs, a Page offering to thruſt him was brought to the Barr and committed, but was the next day upon the motion of *Sr Francis*, and his ſubmiſſion upon his knees releaſed, ſome of the Houſe moved to ſend him to a Barbers to have his hair cut, becauſe it was too long, but others diſſwaded it, as a matter not becoming the gravity of the Houſe.

Sr Walter Rawleigh declared that the Queen had ſold her jewels,

jewels, the money lent her by her Subjects was yet unpaid, she had sold much of her Lands, spared money out of her own purse and apparell for her peoples sakes, and for his own part wished, that they would bountifully, according to their Estates, contribute to her Majesties necessities, as they now stand. *Idem ibidem fol.* 198.

Mr Townsend one of the Members declared in the House of Commons, *that they were Summoned and called as a grand Jury of the Land, though not upon their Oaths, yet upon their conscience, and was not contradicted.*

Sr Edward Hobby said it was always the custom of the House of Commons to have their Warrant for the Election of a new Member directed by their Speaker to the Clark of the Crown.

But *Sr Francis Hastings* said that the Lord Keeper had *in private informed him, that he had rather have it made to himself, then to any inferior Minister.*

Sr *Edward Hobby* said that the Parliament being the highest Court was to Command all other Courts

A bill being brought in for explanation of the Common Law concerning the Queens Letters-patents, and certain Monopolies, *Mr Spicer* a Burgess of *Warwick* said, *that bill might touch the prerogative Royall, which was, as he had learned, so transcendant, as the eye of the Subject may not aspire thereunto, and therefore be it far from him that the State and prerogative Royall of the Prince should be tyed by him or the Act of any other Subject.* *Idem ibidem* 230.

Mr *Francis Bacon said for the prerogative royall of the Prince, for his part he ever allowed it, and is such as he hoped should never be discussed, the Queen is our Sovereign, hath both a restraning and enlarging liberty of her Prerogative, that is, hath power by her patents to set at liberty things restrained by Statute Law, by Non obstante's of Penall Laws or otherwise, and by her Prerogative to restrain things that are at liberty as by her Letters-Patents for new inventions, license for transportation, &c. But Mr Speaker pointing to the bill said, this is no stranger in this place, but a stranger in this vestment, the use hath been ever by petition to humble our selves to her Majesty, and by petition to desire to have the grievances redressed, especially when the remedy toucheth her in Right or Prerogative; If her Majesty make a patent or a Monopoly to any of her servants, that we must cry out against, but if she grants it to a number of Burgesses or a Corporation, that must stand, and that forsooth is no Monopoly, I say and I say again*

that

that we ought not to deal or meddle with or judge of her Majeſties Prerogative I wiſh every man therefore to be carefull of this point.

Mr Lawrence Hyde ſaid, *I do owe a duty to God and Loyalty to my Prince, I made it (the Bill) and I think I underſtand it, far be it from this heart of mine to write any thing in prejudice or derogation of her Majeſties Prerogative Royall and the State.*

Mr Serjeant Harris moved that the Queen might be petitioned by the Houſe in *all Humility.*

Mr Francis Moor, afterwatds Serjeant *Moor* ſaid *he did know the Queens Prerogative was a thing curious to be dealt with.*

Sr George Moor ſaid, *We know the power of her Majeſty cannot be reſtrained by any Act, why therefore ſhould we thus talk? Admit we ſhould make the Statute with a non obſtante, yet the Queen may grant a Patent with a non obſtante to croſs it.*

Mr Spicer ſaid, *He was no Apoſtate, but ſhould ſtick to his former faith, which was, that it ſhould be by way of Petition, and that a courſe by Bill would neither be gratum nor tutum.*

Mr Davies ſaid, *God had given power to abſolute Princes, which he attributeth to himſelf Dixi quod Dii eſtis, and as he attributes unto them, he hath given unto them Majeſty, Juſtice, and Mercy; Majeſty in reſpect of the Honour that a Subject oweth unto his Prince, Juſtice in reſpect he can do no Wrong, and therefore the Law is in Firſt H. 7. the King cannot commit a diſſeiſin: Mercy, in reſpect he giveth leave to his Subjects to right themſelves by Law.*

Mr Secretary Cecill ſaid, *I am a Servant to the Queen, and before I would ſpeak or give any conſent to a caſe that ſhould debaſe her Sovereignty or abridge it, I would wiſh my tongue out of my Head, I am ſure there were Law-Makers before there were Laws, if you ſtand upon Law and diſpute her Majeſties Prerogative hear what Bracton ſaith, Prærogatium nemo audeat diſputare; for my own part I like not ſuch courſes ſhould be taken, and you Mr Speaker ſhould perform the charge which her Majeſty gave unto you at the beginning of this Parliament not to receive Bills of this nature, for her Majeſties ears be open to all our grievances, and her hands ſtretched out to every mans petition.*

All which worthy and dutyfull expreſſions of duty and Loyalty to their Sovereign were made by Mr *Spicer*, Mr *Francis*

Francis Bacon, Sr *Robert Cecill*, Sr *George Moor*, Serjeant *Francis Moore*, Sr *Walter Rawleigh* and others, without any neglect of the good of the publick, or the Office of Members of the Houſe of Commons E ected only upon their Princes Writs and Warrants *ad faciendum & conſentiendum* to thoſe things, which ſhould be by their Soveregn ordained by the advice of the Lords Spirituall and Temporall in Parliament aſſembled, without any queſtion or contradiction made thereupon, or calling them to the Bar, Impriſoning them in the Tower of *London*, excluding them the Houſe, or making them ask pardon upon their knees, with other exorbitances which ſome of their Succeſſors have too often uſurped to ask pardon of their fellow Members who did not at all repreſent thoſe that Elected them who were not wont to call everything that ſuited not with their fancies to be an Error againſt the ſence or Tyde of the Houſe, or to be ſent to the priſon of the Tower of *London*, none of their priſon, or under their command or Authority, without their Soveraigns privity or order, being far without the Bounds or reach of their Commiſſion or purpoſe of it, and an incroachment upon the regall power, was in the Houſe of Commons in Parliament uſed until the Late diſtemper thereof, or for their late Speaker Mr *Williams* when *Sr Robert Peyton* one of their Members was for ſome matter which they would create to be criminall, brought upon his knees, and adjudged to be expelled the Houſe and to receive his ſentence from their Speaker, in no ſmoother an expreſſion or language then, Go thou curſed thou worſt of men, the Houſe of Commons hath ſpewed thee out, when they and others may know that the Houſe of Peers do never uſe by themſelves to exclude any of their members without the order and concurrence of their Sovereign, and in caſe of Treaſon.

Upon the great debate of Monopolies, as they called them, granted by the Queen, a liſt being brought into the Houſe, ſhe having notice thereof ſent for the Speaker and declared unto him, that *for any patents granted by her, whereby any of her Subjects might be grieved or oppreſſed, ſhe would take preſent order for reformation thereof, her Kingly Prerogative was tender, and therefore deſired them not to ſpeak or doubt of her carefull reformation, but that ſome ſhould preſently be repealed, others ſuſpended, and none put in execution, but ſuch as by a Tryall at Law ſhould appear to be for the good of the people, which he reporting to the Houſe to his unſpeakable joy* (as he ſaid,) *and comfort*, but thereupon *Secretary Cecill ſaid*

that there was no reaſan all ſhould be revoked, for the Queen meant not to be ſwept out of her Prerogative.

And therefore gave them a caution for the future, to believe that whatſoever is ſubject to a publick expoſition cannot be good, and ſaid that Parliamentary matters were ordinarily talked of in the ſtreets, that the time was never more apt to diſorder, or make ill interpretations of good meanings, and thought thoſe perſons would be glad that all Sovereignty were turned into Popularity, we being here but the popular bouch, and our liberty, but the liberty of the Subject; if any man in the Houſe ſpeak wiſely we do him great wrong to interrupt him, if fooliſhly, let us hear him out; we ſhall have the more cauſe to tax him, and I do heartily pray that no member of this Houſe may plus verbis offendere quam concilio iuare.

Mr *Francis Moore* moved that the *S*peaker in the name of the Houſe might give thanks to her Majeſty for ſetting at liberty her *S*ubjects from the thraldom of thoſe monopolies, *and crave pardon for any extravagancy of words in that Houſe.*

Mr *Wingfield wept* and ſaid his heart was not able to conceive, or his tongue expreſs the joy that he had in that meſſage, but his opinion and Mr *Francis Moore* and Mr *Francis Bacon's* were againſt the making of the Apology, for that would be to accuſe themſelves of a fault, when they had committed none, and being put to the vote, it was by the whole Houſe agreed, that the Speaker ſhould return the Queen their humble thanks.

Mr *Donald* wiſhed that her gracious meſſage might be recorded in their books; others that it might be in *Letters of Gold*, others in their Hearts.

Idem ibidem fol. 258. & 290.

Mr *Secretary Cecill* ſaid, there is not any ſoul living deſerves thanks in this cauſe, but our Sovereign.

Mr *Francis Bacon* ſaid, he had ſerved as a member in 7 Parliaments and never knew but two committed to the Tower, the one was Mr *Arthur Hall* for ſaying, that *the Lower Houſe was a new Perſon in the Trinity*, and the other was *Parry* for making a ſeditious ſpeech in the Houſe.

When the thanks were given by the Speaker, ſhe ſaid *She was the perſon that ſtill* (yet under God) *had delivered them*, and truſted that by his Almighty power ſhe ſhould be the Inſtrument to protect them.

Declared to the Speaker of the Houſe of Commons that ſhe rejoyced not *ſo much to be a Queen as a Queen over ſo thankfull a people.*

Sir

Sir *George Belgrave* was complained of for procuring himſelf to be elected Burgeſs of *Leiceſter* by appearing in a blew coat with the Earl of *Huntingtons* cogniſance, for which the Queens Attorney Sr *Edward Coke* exhibited in the Earl of *Huntingtons* name an Information at the Queens ſuite in the *Star-Chamber*.

Mr *Bacon* ſaid there never were but 2 *articuli ſuper chartas*, the one *when the Sword was in the Commons hands*, the other *Articuli Cleri*, *when the Clergy of the land bore ſway*.

Some bill being brought in concerning monopolies which had been formerly by the Queen redreſſed, Sr *Edward Hobby* ſaid, *If we will be dealing herein, by petition will be our only courſe, this is a matter of Prerogative, and this no place to diſpute it.*

Upon the bill concerning the tranſport of Iron ordnance, Mr *Cary* ſaid we take it for an uſe in the Houſe, that when any great and weighty matter or bill is here handled, we ſtraightway ſay, it toucheth the Prerogative, and that muſt not be medled withall, and by that we come here to do our Country good, bereave them of that good help we might adminiſter unto them.

To which Mr Speaker replyed *qui vadit plane vadit ſane*, let us lay down our griefs in the preamble of the bill, and make it by way of petition.

Mr *Francis Haſtings* ſaid, How ſwiftly and ſweetly her Majeſty apprehended our griefs I think there is no Subject but knoweth; for us then to deal in a matter ſo highly touching her Prerogative, we ſhall not only give her Majeſty juſt cauſe of offence, but to deny our *Proceeding by bill.*

Sr *George Moor* diſliked the proceeding by bill.

Mr *Laurence Hyde* ſaid that he ſaw no reaſon, but we may proceed by bill, and not touch her Prerogative, her Majeſty is not more carefull and watchfull of her Prerogative then *H.* 8. & *E.* 6. were, and then there was no doubt or mention made of Prerogative.

Mr *Comptroller* ſaid, *in duty we ſhould proceed to ſpeak unto the Queen by way of petition, and not by way of bill or conteſtation, we muſt note that her ſelf and her Prerogative will not be forced, and I do not hold this courſe by bill to ſtand either with reſpect or duty.*

In the debate concerning the *Earl of Huntingtons* bill in the Star-chamber (ſitting the Parliament) againſt Sr *George Belgrave* for indirectly making himſelf a Burgeſs in Parliament,

ment, ſome of the Houſe moving for a conference with the Lords about it, Mr *Dale* ſaid, *id poſſumus quod de jure poſſumus*, and that the ſafeſt way would be a conference.

Mr *Tate* ſaid, *it will not be good to pry too near into her Majeſties Prerogative by examining Informations exhibited in the Star-Chamber.*

Mr *Cary* ſaid, that the cuſtom of the Houſe of Commons was, when they wanted any Record, to ſend their Warrant to the Lord Keeper to grant a *Certiorari* to have the Record brought into the Houſe in *Ferrers* caſe in the Reign of King *Henry* the 8th, who being a Member of the Houſe of Commons and Impriſoned, *the Houſe of Commons made an addreſs to the King for his releaſe, when they could not do it by their own power.*

Compton's *Juriſdiction of Courts tit. Parliament.*

Mr *Speaker* ſaid, *I am to deliver unto you her Majeſties commandement that for the better and more ſpeedy diſpatch of cauſes we ſhould ſit in the afternoon, and that about this day ſennight her Majeſties pleaſure is this Parliament ſhall be ended.*

At a conference with the Lords their Lordſhips told the Commons they would not have their Judgment prejudicated, and in that conference of the Houſe of Commons ſtiled themſelves the Lower Houſe.

There was ſaith Juſtice *Huſſey* a whole Alphabet of pænall Laws in the time of King *Henry* the *7th.*

Mr *Mountague* ſaid, *The prærogative Royall is now in Queſtion, which the law hath over allowed and Maintained.*

Serjeant Heale ſpeaking ſomewhat that diſpleaſed the Generality of the Houſe, they all made an humming, and when he began to ſpeak again, they did the like; whereupon the *Speaker* ſtood up and ſaid, *It is a great diſorder that this ſhould be uſed, for it is the antient uſe of this Houſe for every man to be Silent when any one Speaketh, and he that is Speaking ſhould be Suffered to deliver his mind without interruption.*

Sr *Edward Hobby* upon the debate of a bill brought in for the peoples more diligent repair to Church whether the Church-Wardens were the more proper to certifie the defalters, ſaid that when her Majeſtie did give us leave to chuſe our Speaker, She gave us leave to chuſe one out of our own number.

Mr *Onſlow* the Clark of the Houſe of Commons in Parliament being Sick, the Houſe gave his man leave to officiate for him, every Members contributing 12 d. apeice

for

for his ſupport.

In the caſe of *Belgrave* depending in the Court of *Star-Chamber*, upon an Information brought by Sir *Edward Coke* her Majeſties then Artorney General, proſecuted by the Earl of *Huntington* for wearing his Livery to make himſelf a Member of the Houſe of Commons in Parliament, after ſeveral Motions, Debates, and Diſputes in the Houſe of Commons, a Conference was concluded to be had with the Lords thereupon, the rather for that it had been ſaid that the Lords in Parliament were reported to have directed the ſaid Bill to be exhibited in the *Star-Chamber*, one of their Houſe being concerned therein, and a day appointed by the Lords accordingly, which failing and revived again by a motion of one of the Members of the houſe of Commons in their own Houſe, and the matters limitted, whereupon it ſhould conſiſt, firſt touching the offence committed by Mr. *Belgrave*, whether it was an Infringement of the Liberty of the Houſe of Commons, and for the firſt, that the Commons would do nothing therein until a Conference with them, for the 2d. to know the reaſons of their Lordſhips appointment of the Information, and to bring it to ſome end. Mr. *Speaker* at another day certifying a meſſage from the Lords concerning ſome other matters, Sir *Edward Hobby* ſaid, We attended the Lords that morning which was appointed touching the Information againſt Mr. *Belgrave*, who in the end concluded that foraſmuch as it concerneth them as the Houſe of Commons Priviledges, they deſired ſome time to conſult, and they would ſend us word of their Reſolutions, and ſome days after a Copy of the Information againſt *Belgrave* was ſent to the Houſe of Peers unto them under the hand of the Clerk of the *Star Chamber* by them, and Sir *Edward Hobby* with ſome Bills, but nothing appeareth to have been done touching the ſaid Information againſt *Belgrave*. P. 298,299.

In the mean time a ſervant of Mr. *Huddleſton* a Knight of the Shire for *Cumberland* being arreſted in *London* upon a Writ of Execution, the Plaintiff and Serjeants denying to releaſe him, becauſe it was after Judgment, they were upon complaint to the Houſe committed to Priſon, the Serjeant releaſed, paying the Serjeant at Arms Fees, and the Plaintiff paying them as well as his own, was ordered to remain three days in the Serjeants Cuſtody. P. 324,326.

For a like Judgment was cited to have been given by the Houſe of Commons in the caſe of the Baron of *Wilton* in that Parliament. Upon *Thurſday December* the 7th Sir *Edward Hobby* ſhewed that the Parliament was now in the wain and near ending, and an order was taken touching the Information delivered to this houſe (*viz.* the Houſe of Commons) in Mr. *Belgraves* caſe but nothing done therein, and as it ſeemeth by not taking out the Proceſs no Proſecution of the Cauſe is intended againſt the ſaid Mr. *Belgrave*, he thought it fit, becauſe the chief Scope of the ſaid Information ſeemeth to be touching a diſhonour offered to this Houſe, that it would pleaſe the Houſe that it might be put to the queſtion,(being the original and firſt horrid faſhion of their afterward altogether courſe or manner of voting, and making their own pretended Liberties) whether he hath offended this Houſe yea or no ? If he hath, he deſireth to be cenſured by you,and if he hath not,it will be a good motive to thisHonourableHouſe here preſent,who areJudges in thisCourt;(and yet he might have remembred what long and learned debates and diſputes there had lately been amongſt themſelves, whether the Cuſtom of that Houſe was or had been in caſes of grievance to proceed by Bill, or Petition to the Queen, and it was reſolved that it was the moſt proper and dutiful way to proceed by Petition, which was done accordingly) in clearing theGentleman of that offence when it came before them, which had then no higher eſteem in Sir *Edward Hobbyes* opinion,than to be previous to an after diſquiſition which that Law and the Queens Writ,and the Election of that part of the people that brought them thither, neither did or could give them any greater authority than *ad faciendum & conſentiendum* to do and perform that which the King and Lords in Parliament ſhould ordain to be done and performed, and when all ſhould be rightly conſidered was an offence) too often by more than one or once ſince practiſed, to procure a Memberſhip indirectly in an Houſe of Commons in Parliament (committed by Mr. *Belgrave* that ſhould as little have been countenanced as there was any juſt or legal Warrant for it, wherein Mr. *Comptroller* ſaid, I know the Gentleman to be an honeſt Gentleman, and a great Servant to his Prince and Countrey, I think it very fit to clear him,

P. 329.

him, I wiſh it may be put to the Queſtion, I will be ready to vouch your ſentence for his offence when it comes there, but if any other matter appears upon opening the Cauſe, with that we have nothing to do. Mr. *Secretary Cecil* who had not long before ſaid in the ſame Houſe, *he was ſorry to ſee ſuch diſorder, and little do you know how for diſorder this Parliament is taxed, I am ſorry I ſaid not ſlandered, I hoped that as this Parliament began gravely and with Judgment, we ſhould have ended modeſtly, and at leaſt with diſcretion, I proteſt I have a Libel in my pocket againſt the proceedings of this Parliament*, could when he came to ſpeak of Mr. *Belgraves* aforeſaid offence ſay, he had heard it ſpoken of diverſly, but for his own part he was more apt to move againſt Mr. *Dyet* a Member of that Houſe that drew the Information in the Court of *Star-Chamber againſt* Mr. *Belgrave*, that he ſhould be well puniſhed for ſeeking to diminiſh the *Prærogative* of the Court (a power or word never before believed to be proper or applicable to the Houſe of Commons in Parliament) by praying Aid of the Court of *Star-Chamber* for an offence done to us this Court ſitting, (which complexedly with the Houſe of Peers in Parliament hath been, and ought to be ſtiled a Court, but not ſeparately as to its own conſtitution or practice ;) And deſired that Mr. *Belgrave* may be cleared here, which will be a good Inducement not to cenſure him heavily there, Mr. *Ravenſcroft* ſaid, *we ought not proceed againſt a Fellow member until he be called ; It is not apparent to us that he made the Information, it is under Mr.* Attorneys *hand, and therefore ought to be intended his, for now it is upon Record under his hand, againſt which we can receive no Averment*, by ſpeech of others, but by the Gentlemans own words, *viva voce.* And ſo there was no more ſaid of that matter. P. 330. 321. and 322.

But it was put to the queſtion whether he ſhould be cleared of the offence to the Houſe yea or no, and all cryed *I, I, I,* only young Mr. *Francis Grantham,* who gave a great No, *at* which the Houſe laught, and he bluſht.

Some of the Members of the Houſe of Commons obſerved and found fault, that when the Members were Voting, the contradicting party went out of the Houſe leaving the affirming party in the Houſe, they that remained

mained did it more to continue and abide in their places, than for any affection they had to the Vote of the other, *and there might be alſo a great miſtake in the temputation of the whole number of the Members, when ſome never came at all, or tarried but a little, while many others were ſtrugling in or out about their own Domeſtick or particular Affairs.* Upon Friday *December* the 18th. *Anno. Dom.* 1601. as the Speaker was going to the Houſe in the morning, the Queens General Pardon was delivered unto him, which he took and delivered into the Houſe, which they ſent back again, becauſe it was not brought according to courſe (an haughtineſs not uſual or comely for thoſe that were to receive ſuch vaſt benefits by it.) The Collection for the Clerk of the Houſes Servant ſupplying his Maſters place at 12 *d.* each Member, amounted unto 25 *l.* which was after the number of 500 Members.

Afterwards Mr. Attorney General aſſiſted by Dr. *Cary* on the right hand, and Dr. *Stanhop* on the left, brought to the Houſe her Majeſties free and general Pardon, and delivered alſo to the Houſe their Subſidy-Bill, for the grant of four entire Subſidies, Eight Fifteenths and Tenths, the Subſidy of the Clergy, was ſent in a Roll according to the uſual Acts, whereunto Sir *Edward Hobby* took exceptions becauſe it was not ſent in a long Skin of Parchment under the Queens Hand and Seal, ſo it was ſent back again, and then the other was ſent.

The *Lord Keeper* upon the *S*peakers *S*peech at the ending of the Parliament ſaid, *That Laws were to have the Queens' Royal Aſſent, as God ſhould direct her Sacred Spirit,* that ſhe ſaith touching their *proceeding in the matter of her Prærogative, that ſhe is perſuaded that Subjects did never more dutifully, and that ſhe underſtood they did* obiter *touch her Prærogative, and not otherwiſe, but by humble Petitions, and therefore that thanks that a Princeſs may give to her Subjects ſhe willingly yieldeth*; but now ſhe well perceiveth that private reſpects are privately masked under publick pretences; as for the grant of the Subſidies, and the manner of giving the Subſidies, *it was not perſuaſive or by perſuaſive Inducements, it was ſpeedy, freely, and of Duty, with great* Contentment, that no Prince was ever more unwilling to exact *or receive any thing from the Subject, then ſhe our moſt Gracious Soveraign, for*

we

we all know ſhe never was a greedy Graſper, nor ſtrait-handed keeper, and therefore ſhe commanded him to ſay, that you had done plentifully, dutifully and thankfully; And added alſo an admonition to the *Juſtices* of *Peace* (many of which probably were Members there preſent) *that they would not deſerve the Epethites of prowling Juſtices, Juſtices of quarrels, who counted Champerty good Conſcience, Juſtices who did ſuck and conſume the Wealth and good of the Commonwealth*, and alſo to thoſe *who do lye if not all the year, yet at leaſt three quarters of the year at* London, and after ſome Bills or Acts of Parliament ſigned with *la Royne ſe voult*, or *come il eſt deſire*, and ſome others with *la Royne ſaviſera* diſſolved that Parliament in *Anno* 1601.

Which may be juſtly accompanied with the Obſervations and Annotations of that eminent and learned Lawyer Mr. *William Noy* Attorney General of that pious Prince and Martyr King *Charles* the firſt, who was by death arreſted and called out of this World before his Royal Maſters Perſecution, and ever to be deteſted Murder, and in all probability if he had then been living, would have done more towards the reſcue of his Royal Perſon and Government, than all theſe ſilent Lawyers that crouched under the burdens of the Rebellious miſcalled Commonwealth, and their Man of ſin *Oliver Cromwell*, that afterwards cheated them of their Prey.

M. S. of Mr. *William Noy*, the learned Attorney General of King *Charles* the firſt.

In former times, eſpecially ſince the admittance of Commons elected to Sit in our great Councils in Parliament, all the Acts of Parliament were framed and drawn up upon the Petitions of the Parliament, and the Kings Anſwers thereunto by the Judges, and the Kings learned Council at Law compendiouſly, and very often after the ending of the Parliament, or ſome good part of time afterwards, and if any thing were overſliped by the Commons, a clauſe was added to help the ſame.

But on the other ſide, after the Petitions and Anſwers were read, and the Royal Aſſent given, Additions contrary to the meaning of the Commons have been added, and ſometimes ſomewhat omitted.

All Bills commonly called Petitions, were moſt uſually exhibited by the Commons, it being their part *petere leges*, as beſt knowing what was amiſs.

At the making of the Statute of *Merton* in *Anno* 20. *H.* 3.

Ro. Parl. 20 H. 3. n. 11. concerning Treſpaſſes in Parks and Ponds, the anſwer was, it is not yet diſcuſſed, for the Lords demanded the impriſonment of the offenders therein, and the King denyed it, wherefore it was deferred.

Some Petitions were formerly indorſed *coram Rege*, againſt which the Commons petitioned in *6 E. 3. n. 31.* for that nothing was done upon their Petitions, and therefore prayed that theirs might be anſwered before the Parliament ended. Some Bills have been exhibited in their names, which they agreed not unto, as in *Anno* 21. *E.* 4. 3. concerning exceptions of Villenage, where the Commons in their Petition afterwards alledged it to be expreſly againſt the Laws and Cuſtoms of the Land, and therefore prayed the King and his good Council, to prevent the miſchiefs, which might happen by that Petition, and maintain the good Laws and Cuſtoms of the Land in his time, and the times of his Anceſtors, by the ſages of the Law uſed, and without having regard to the Petitions of any ſingular Perſons to the overthrow and open undoing of the Law of the Land.

Ro. Parl 22 E. 3. n. 30. The Commons prayed that the Petitions, which were delivered by them in the laſt Parliament, and by our Lord the King, Prelates and Grandees of the Land anſwered and granted, be held, and the anſwers before granted, not changed by any Bill delivered in this Parliament, in the name of the Commons, or of any other, for the Commons do not avow any ſuch Bill.

Unto which was anſwered another time, the King by the advice of the Prelates and Grandees cauſed to be anſwered the Petitions of the Commons touching the Laws of the Land, that the Laws had and uſed in times paſt, nor the proceſs uſed hereafter, cannot be changed without making thereon a new Statute, the which thing to do *the King would not then, nor yet can intend for divers reaſons, but as ſoon as he can intend it, he will take the Grandees and Sages of his Council about him, and Ordain upon ſuch Artitles and others touching the amendment of the Law by their Advice and Council, ſo as reaſon and equity ſhall be done to all his Leiges and Subjects.*

Ro. Parl. 25. E. 3. n. 39.

Anno 25. *E.* 3. *Item priontles Commons*, that for no Bill, eſpecially of ſingular Perſons, no Statute heretofore ordained be changed, nor other proceſs made upon the Execution of the Statutes, which hath not been uſed in times paſt.

About

About which time, or not long before, the Commons did uſe to preſent their Bills (or Petitions) to the Receivers of Petitions appointed by the King by one ſelect Meſſenger (no conſtant Speaker it ſeems being then made uſe of, or Mace or Enſigns of Honour carried before him, by one of the Kings Serjeants at Arms, granted or allowed by the King, of which honourable circumſtances Mr. *Pryn* acknowledgeth he could find no original) accompanied with divers other of the Houſe, which probably, ſaith Mr. *Noy*, might produce ſuch or the like inconveniencies.

A Subſidy was granted upon condition that their Petitions and grievances might be received the next day in Parliament, and haſty remedies ordained, which being promiſed, the Commons were ordered to deliver their Petitions to the Clerk of the Parliament (then intended and underſtood to be of the Houſe of Peers) which was done accordingly. Ro. Parl 20 E. 3. n. 11.

Anno 21. *E.* 3. The Commons adviſed four days n the Kings charge for their advice to be given touching the *French* War, wherein at laſt they deſired to be excuſed. Ro. Parl. 21 E. 3. n. 4. & 5.

Anno 22. *E.* 3. Granted an Aid upon condition that their Petitions of the laſt Parliament, and of this, might be diſpatched in the preſence of four or ſix of the Commons, and afterwards delivered their Petitions to the Clerk of the Parliament. Ro. 22 E. 3. n. 4. & 15.

Anno 29. *E.* 3. The cauſe of Summons being declared on the *Wedneſday* for a ſpeedy Aid, the Commons were commanded to give their anſwer upon the *Friday* following, and in the mean time to make ready their Bills and Petitions, on which day after a ſhort parlance with the Lords, they granted the Subſidy, and exhibited their Petitions before the King. Ro. Parl. 29 E. 3. n. 10. & 11.

Anno 42. *E.* 3. Were charged to make ready their Petitions, and to deliver them upon the *Wedneſday* following. Ro. Parl. 42 E. 3. n. 8. & 9.

Anno 43. *E.* 3. Being commanded to deliver their Petitions prayed day until the *Saturday* following, and then preſented the ſame. Ro. Parl. 43 E. 3. n. 10.

Anno 47. *E.* 3. The King requiring a ſpeedy Aid, commanded, untill it ſhould be agreed, that all buſineſs in the Parliament ſhould in the mean time be ſuſpended. Ro. Parl. 47 E. 3. n. 4.

Petitions

Petitions of the Commons were not alwaies delivered in Parliament to the Receivers of Petitions, but ſometimes delivered publickly to the Lords themſelves, ſitting in their upper Houſe, unleſs ſometimes when the Lords had finiſhed the charge given them by the King, and had no occaſion to ſit dailiy in their Houſe, then they were delivered to the Clerk of the Parliament.

Petitions alſo were ſometimes in Parliament directed to be delivered to the Lord Chancellor, who might of himſelf give them ſuch Remedies, as the ordinary courſe of the Chancery would.

The King uſually gave the Anſwers unto Bills exhibited by the Commons with *le Royle veult*, or *le Roy's adviſera*, to ordinary Petitions in the granting or denying.

Ro. Parl. 22 E. 3. n. 30. The petition of the Commons in 22 *E.* 3. was anſwered by our Lord the King, the Prelates and the Grandees of the Land,

Ro. Parl. 28 E. 3. n. 27. In 28 *E.* 3. Some by the Lords alone.

Ro. Par. 2 R. 2. n. 58. And in the 2d *R.* 2. *n.* 47. ſome anſwered by the aſſent of the Commons, as 18 *E.* 3. to the 18 Article *Anno* 29. *E.* 3. *n.* 22.

Some refered to the Kings great Councel, as 22 *E.* 3. *n.* 18. 28 *E.* 3. *n.* 43.

Others anſwered by the Kings Councel alone, as *Anno* 17 *E.* 3. *n.* 52. 10 *E.* 3. *n.* 28. & 25 *E.* 3. *n.* 27.

Some referred to the King himſelf, as 22 *E.* 3. *n.* 9. 29. *E.* 3. *n.* 18. 20 *E.* 3. *n.* 17. 16 *R.* 2. *n.* 32. 1 *H.* 4. *n.* 118.

The Judges and the Kings learned Councel in the Law, and the Lords of the Kings privy Councel were antiently the ſtanding Committees for to conſider and examine Bills or Petitions, but the Judges and the Kings learned Councel at Law do now only attend the Lords in their Committees.

All Bills and petitions in Parliament were formerly directed to the King and his Councel.

Ro. Parl. 20 E. 3. n. 11. *Anno* 20. *E.* 3. the Petitions of the Commons were brought before the Grandees of the Councel.

Ro. Parl. 27 E. 3. n. 9. *Anno.* 27. *E.* 3. the Commons pray that their Petitions may be anſwered, the which our Lord the King made to be read and anſwered by the Prelates, Grandees, and others of his Councel.

The

The Chancellor telleth the Commons that the King would ordain certain Lords and others after *Eaſter*, who ſhould Sit upon the points of their Petitions not anſwered at that time. Ro. Parl. 45 E. 3. n. 8.

The Judges are ſummoned to Parliament *ad tractandum cum concilio*, for ſo it was explained *Anno* 4. to *E.* 3. the præamble of the Statute *de Bigamies* mentioneth the preſence of certain reverend Fathers Biſhops of *England* and others of the Kings Councel.

Anno 17. *E.* 3. the Parliament was adjourned before Receivers and Triers of Petitions were appointed.

Although a time was before limited for the delivery of Petitions, and the Commons were charged touching the maintenance of Peace, *&c.*

Petitions were ſometimes anſwered by a Select number of the Kings Councel, and at other times all as the King pleaſed.

Some Petitions were formerly indorſed *coram Rege*, againſt which the Commons petitioned in *6 E. 3. n.* 31. For that nothing was done upon their Petitions, and therefore prayed that they might be anſwered before the Parliament ended.

It appeareth by divers Anſwers to Petitions in Parliament, that the Kings Councel unto whom they were committed did but report, what they thought fit to be done for Anſwer, *prout Anno* 15. *E.* 3. *n.* 17. where it is ſaid, our Lord the King cauſed the ſame Anſwers to be given to the ſaid Petitions, the which together with the Petitions were reported in full Parliament. Ro. Parl. 15 E. 3. n. 17. 26.

Eodem Anno it was anſwered, Our Lord the King commanded Anſwers to be made, the which put into writing were reported before our Lord the King, and the Prelates, and other Grandees.

Anno 17. *E.* 3. It ſeemeth to the Councel that it be done. Ro. Parl. 17 E. 3. n. 52.

Anno 18. *E.* 3. Divers Petitions of the Commons being exhibited, a *Memorandum* was entred, *viz.* Unto which Petitions it was anſwered by the King and the Grandees, as to the ſecond Article, *Soit ceſtipetition* granted.

To the third Article *il plaiſt au Roy*, &c.

To the eight Article *il plaiſt au Roy & au Son conſeil quæ ſe ſoit.*

To the eleventh *il plaiſt au Roy, &c.*

To the 12th Article *Soient les Statutes ſur ceo faites tenus, &c.*

Ro. Parl. 18. E. 3. n. 32. *Anno eodem* the Anſwer was, *It is aſſented by our Lord the King, the Earls, Barons, Juſtices, and other Sages of the* Law, that the things above written be done in convenable manner according to the prayer of the Commons in a long Petition of theirs againſt proviſions from *Rome*, whereunto the Biſhops durſt not aſſent.

Eodem Anno the Commons exhibited their Petitions, which were anſwered drawn into a Statute ſealed and delivered unto them *Sedentibus* before the Parliament ended, in the ſame Parliament alſo the Parliament exhibited their Petitions, which were anſwered, ſealed and delivered unto them ſitting the Parliament, which was not uſual, for the Statutes were moſt commonly made after the end of the Parliament.

Ro. Parl. 18. E. 3. n. 11.

The Anſwer to one of the Clergies Petitions in this Parliament was accord *eſt pur aſſent du conceil.*

Ro. Parl. 20. E. 3. n. 33. 35. & 38. Unto which may be added thoſe of the 20th year of the Raign of King *Edward* the third, which concerned the Pope, to which Anſwers the Prælates (who were of that Committee) not daring to agree, the opinion of the temporal Lords and the Judges were only reported, viz. *It ſeemeth to the Earls, Barons and other Sages, Laymen of the Kings* Councel, *&c.*

Ro. Parl. 21. E. 3. n. 63. Anno 21. *E.* 3. *il Semble a conſeil qu'il faut faire pour grand bien ſi plaiſt au Roy & as grandes du terre.*

Ro. Parl. 21. n. 3. *Eodem Anno, It ſeemeth unto the King, the Prælates and the Grandees, that the Cuſtom ſtand in force, the Commons having petitioned* that the Cuſtom of the Cloth made in *England* might be taken away.

Ro. Parl. 25. E. 3. n. 27. 28. 30. *Anno* 25. *E.* 3. It ſeemeth to the Councel that ſuch enquires ceaſe, *if it pleaſe the King.*

Eodem Anno, It ſeemeth to the Councel that the Laws heretofore ordained ought to ſuffice, for that this Petition is *againſt the Law of the Land, as well as againſt the holy Church.* It ſeemeth to the Councel that it ought not to be granted (the Petition being that no *Capias Excommunicat.* ſhould iſſue before a *Scire facias* to the party *Et al. hujuſmodi*, &c.

Ro. Parl. 25. E. 3. n. 27. *Eodem Anno,* It was anſwered, *It is not the intereſt of our Lord the King, nor of the Grantz.*

Anno

Anno 28. *E.* 3. *n.* 33. *It ſeemeth to the Lords and to the Grands that the Petition is reaſonable,* Ro. Parl. 28. E. 3. n. 33.

Eodem Anno, It is anſwered, *Let the Common Law uſed ſtand, for the Lords will not change it.* Ro. Parl. 28. E. 3. n. 27.

Anno 30. *E.* 3. The Petition of the Commons touching Chaplains Wages had two anſwers, The Archbiſhops and Biſhops at the motion of the King and Grandees have ordained, *&c.* And therefore the King and the Grandees have ordained, *&c.* Thoſe two Anſwers are recited almoſt *ad verbum*, the Prelates firſt, and then the Temporal Lords conſidered of the Anſwer. Ro. Parl. 30. E. 3. n. 23.

Anno 47 *E.* 3. It was anſwered, *The King and the Lords have yet no will to change the Common Law.* Ro. Parl. 47. E. 3. n. 27.

Eodem Anno, The Commons do require that every mans Petition be anſwered. Ro. Parl. 47. E. 3.

Anno 2. *R.* 2. *apud Gloceſter le Roy del aſſent des Prælats, Dukes, Countz, Barons, & de les Commons de ſon Royalme ad ordeigne,* &c. The Commons having petitioned that all manner of Merchants might have free Traffick here. Ro Parl. 2. R. 2. n. 74.

And the like Anſwer was made to their Petition in *Anno* 3 *R.* 2 *n.* 37. *&* 38.

In 16. *R.* 2. Upon a Petition of *Robert de Mull* and his Wife touching the *diſcharge of a Fine*, the King anſwered, *Soyent au Roy car ceo neſt petition du Parlement.*

In *Anno* 20. *R.* 2. *Robert Mull* petitioned the Commons ſtiling them by the title of honourable and *Sage Commons* in Parliament, praying them to be diſcharged of a Fine to the King impoſed upon him, and ſupplicating them to make Relation thereof to the Parliament, and alledging that his Bill or Petition had been put upon the file the laſt Parliament, which doth prove that there was no ſtanding Committees then appointed by the Commons in Parliament.

2 *H.* 4. The King by Advice of the Lords in Parliament hath committed this Petition to his Councel. 2. H. 4. n. 55. 47. 37.

Eodem Anno upon a Petition of the Commons for removing of Stanks and Milks, generally, it was anſwered, It ſeemeth to the King and to the Lords, that this Petition *ſounds in diſheriſon of the King and of the Lords and others, wherefore let the Statutes before made be held and kept.*

Eodem Anno, It is aſſented and accorded *by the King and Lords,* &c.

Anno

Ro. Parl 2 H. 5. n. 38 & 37. *Anno* 2. *H.* 5. *The King by the aſſent of all the Lords granteth*, &c.

Touching the Petition for taking of Tithe of great Wood contrary to the Statute of 4 *E.* 3. whereupon the Judges were of ſundry opinions; It was anſwered, becauſe the matter of the Petitioners demands required great and mature deliberation, the King therefore would that it be *adjourned* and remitted to the next Parliament, and that the Clerk of the Parliament cauſe this Article to be *brought before the King, and the Lords at the beginning of the next Parliameut for declaration thereof to be made.*

Ro. Parl. 2. H. 6. n. 12. In the 2d year of the Raign of King *Henry* the ſixth the King by the aſſent of the Lords Spiritual and Temporal and the Commons, granted the contents of their Petition in all points.

Divers other Anſwers given do prove Debates to have been in Parliament upon Petitions *betwixt the Lords* and the *Kings Councel.*

And ſaith Mr. *Noy*, that grand and very Attorney General to King *Charles the Martyr*, who unhappily died before his Royal Maſter, had ſo much need as he had afterwards of his great abilities, or who ever was the careful Examiner of many of the Parliament Rolls and Compiler of that Manuſcript which is honoured with his name, there can be no queſtion made of thoſe or the like Anſwers that they were concluſive, but only reported unto them to have their opinion firſt, and then their aſſent by vote after deliberation, which ſhould neceſſarily *precede* their aſſent, and the Anſwerers were properly the Lords in the Kings name.

And the Debate was in the Kings preſence, for, ſaith he, *I have ſeen* the fragments of the journal *tempore H.* 7. which directly ſheweth that the King himſelf was preſent at the Debate of divers Bills (or Petitions) that were exhibited to the Commons and the Parliament, being kept in the Kings houſe, and near his own lodgings.

The Commons Petition that the Sheriffs be allowed in their accounts for Liberties, *&c.* Unto which was anſwered, The Lords were not adviſed to aſſent unto that which may turn to the decreaſe of the antient Farms of the Realm, *or damage of the Crown*, for ever, ſeeing the King is within his tender Age.

The Commons exhibited two Bills againſt the Ryots of

of *Cheſhire* and *Wales*, &c. To which was anſwered by the aſſent of all the Lords and Peers, when all the Lords and Peers in Parliament were charged in the Kings behalf, whereupon they have of their own good grace and free will promiſed to aid according to their power. Ro. Parl. 12 R. 2. n. 44.

In the 18thyear of the Raign of King *Edward* third, divers Anſwers were made accord, *&c.* not naming by whom,and ſome were general,with only, let this Petition be granted, yet the Statute touching Pleas to be held before the Marſhal doth expound the practice of that age, when it ſaith,that the King by the aſſent of the Prælates, great men and the Commons granted the ſame.

In the Act for moderation of the Statute concerning Proviſors, the Commons are named, and the Lords wholly omitted, and yet in the next Parliament, *Anno* 2. *H.* 4. upon a complaint of the Commons that the ſaid Act was not truly entred, the Lords (upon examination granted by the King upon proteſtation that it ſhould not be drawn into example, and the King remembring that it was well and truly done as it was agreed upon in Parliament,)did affirm, that it was truly entred,taking no exceptions at the ſaid omiſſion,but ſaid,it was entred *au maniere come il fueſt parlz & accords par le Roy es Commons.* Ro. Parl.2.H. 4. n. 11. & 45.

Anno 17 *E.* 3. The Commons petitioning that Children born beyond the Seas might be inheritable of Lands in *England*, that Statute was not inrolled in the ſame year; the Archbiſhop of *Canterbury* demanded of all the Prælates and Grandees then preſent, whether the Infants of our Lord the King,being born beyond the Seas,ſhould be inheritable in *England*, the which Prælates and Grandees being every one examined by himſelf, gave their Anſwers, that the Kings Children are inheritable whereſoever they be born, but as touching the Subjects Children born out of the Kings Service they doubted, and charged the Judges to conſider thereof againſt the next Parliament, the Petition was entred in the Parliament Roll.

The Commons do pray, that where many Parceners uſe an Action Aunceſtrel, and ſome are ſummoned, and have ſerved their Writs alone without naming the others who have recovered,and in the ſame manner that it may be done of Jointenants. Ro. 17. E. 3. n. 52.

To which the King anſwered, *il ſuę al conſeil qu'il ſoit*

faire par le miſcheif qu' ad eſteentiels cas lieur heirs.

And therefore ſaith Mr. *Noy*, Let the Lawyers puruſe thoſe Parliament Rolls, *viz.* 17, 20, 21, 22, 29, 40, 46. 51 *E.* 3. wherein no Statutes at all were made.

Annis 47 and 50 *E.* 3. Statutes were made, yet very many of the Petitions were not granted, but omitted, and doubts not but they will find divers granted, which demanded *Novelley*, and yet not obſerved for Law, becauſe they were omitted in the Statute, and that therefore the Commons have petitioned for ſome of the ſame things again in ſubſequent Parliaments, which they would not have done (except touching *Magna Charta*) if they had, had the grant of their former Petitions been in force.

Fo. Parl. 11. H. 4. n. 28. 63. In the 11th year of the Raign of King *H.* fourth, The Commons do pray that no Chancellor, Treaſurer, *&c.* nor no other Officer, Judge, or Miniſter of the Kings taking fees or wages of him, do take any manner of gift or brocage of any man upon a grievous pain. To which was anſwered *le Royle voet*, which being entred in the Parliament Roll, in the margent was written, *Reſpectuatur per dominum principem & concilium*, whereby it was not made into a Statute, nor ever obſerved for a Law.

In the ſame year they Petition againſt *Attorneys Prothonataries* and *Filacers*, which being likewiſe granted and entred in the Parliament Roll, hath in the margent alſo written the like *Reſpectuatur*, and ſo no Statute made thereon at any time.

Ro. Parl. 13. H. 4. n. 49. But in the next Parliament 13 *H.* 4. The Clerks and Attorneys exhibiting their Petition to repeal that of 11 *H.* 4. did alledge that the Petition and Anſwer, if they be enacted in manner aforeſaid into a Statute, and put in execution, would be grievous, inſupportable, and impoſſible, and therefore prayed a modification.

To which was anſwered, Let the Petition touching the Prothonataries and Filacers be put in ſuſpence until the next Parliament, and in the mean time let the Juſtices be charged to *inter-commune* of this matter, and report their advice therein.

And the reaſon is, becauſe an Ordinance is of a lower nature than a Statute, and cannot repeal a Statute, which is of an higher, and that Ordinances of Parliament are ſeldom publiſhed by Proclamation, as the Statutes were, whereby the Subjects might know how to direct their actions. The

The Statute of 15 *E.* 3. being never uſed or put in practice, was repealed by *a bare Ordinance* in the next Parliament.

In the Statutes or Acts of Parliament concerning *London*, *Anno* 28. *E.* 3. and *Anno* 38. *E.* 3. and *Cap.* 6. concerning Coroners and Takers of Wood, *Cap.* 7. concerning Sheriffs, *Anno.* 25. *E.* 3. *Cap.* 1. concerning Purveyors, and *Cap.* 4. concerning Attachments, and *Cap.* 2. concerning Treaſons, *the aſſent of the Lords in the Parliament Rolls is wholly omitted, and yet the Statutes the beſt Interpreters do mention their Aſſent.*

In the 21 *E.* 3. the Commons pray that the Petitions delivered in the laſt Parliament be diſpatched and anſwered this Parliament without any delay, &c. Ro. Parl. 21. E. 3. n. 7.

To which the King anſwered, *The ſhortneſs of the time will nor ſuffer that thoſe things be diſpatched before* Eaſter, *and therefore it pleaſed the King that thoſe other things be diſpatched.*

The King in *Anno* 22. of his Raign greatly proſpering in his Wars in *France*, and beſieging *Calice*, ſent unto his Parliament in *England* to demand a Subſidy, putting them in mind of their promiſe to aid him in thoſe Wars with their bodies and their purſes, whereupon they granted him two fifteens, the King ſhortly after informing them of more ſucceſſes, and that he had granted to the King of *France* a Truce, and demanding another Subſidy, and to make them the more willing thereunto, required their advice, whereupon after four days deliberation with the Lords, fearing the lengthning of the Wars by Truces, refuſed to adviſe touching the ſame.

The King on the other ſide *received their Petitions, but anſwered them not*, and therefore the next Parliament the Commons petitioning for Anſwers, conditioned with the King in their grants of the Subſidy to have Anſwers to their former Petitions, and thoſe alſo which were delivered in the preſent Parliament; and although they were entred in ſeveral Rolls, as if they had been anſwered in each Parliament, they were *all anſwered in the latter.*

And the uſe and practice was to enter none but ſuch as had been read.

In the 6th year of the Raign of King *E.* 3. it being demanded of the Lords and Commons on the behalf of the King, whether he ſhould ſtay until the buſineſs of Parliament were finiſhed, or take his Journey in haſt into the

the North, they adviſed him to go haſtily into the North, and *to appoint another time for the diſpatch of the buſineſs of the people upon their Petitions.*

Ro. Parl. 14. E. 3. n. 6, 23. The Parliament giving a very great Subſidy to the King, a condition was aſſented unto, that the Petitions of the Commons ſhould be granted, upon which requeſts and conditions by *Commandment of our Lord the King* by the aſſent of the Prælates, Earls, Barons and Commons, a Committee of Prælates, Earls, Barons, the Treaſurer, ſome of the Judges, and ten Knights of the Shires, ſix Citizens and Burgeſſes, whom the Commons ſhould chuſe to ſit from day to day, as alſo concerning the Petitions of the Clergy, and put the ſame into a Statute.

The which Archbiſhops, Biſhops and others, having heard and tried the ſaid requeſts by Common aſſent and accord, cauſed the Points and Articles to be put into a Statute, the which our Lord the King by the aſſent of all in the ſaid Parliament *commanded to be ingroſſed, ſealed, and firmly to be kept throughout the whole Realm.*

Divers things are entred in the Parliament Rolls which had not the conſent of the Commons, for that they might have been concluded by the King and the Lords without them, yet none ſuch could have been entred, but thoſe which were determined in the open houſe, and not privately at a Committee.

Ro. Parl. 45. E. 3. n. 8. 13. 42. The Anſwers to the Commons were appointed to be read *Sedente Curia*, and a Committee appointed to prepare the Anſwers to the reſt after *Eaſter*, and ſo the Clerk having only read thoſe that were anſwered, the Parliament ended, ſaith the Record, in *Lent.*

Shortly after upon the examination of the Subſidy, that it would not anſwer the expectation, he haſtily ſummoned a *Magnum concilium* in Octabis Trin. following.

Where after a further grant of a Subſidy, the Petitions which were not anſwered the laſt Parliament being read before the King, Grands and Commons, the King gave them leave to depart, and ſo ended the Councel. One of the laſt Parliament againſt Impoſitions upon Woolls without aſſent of Parliament is made into a Statute.

And happily it was anſwered at the Councel and not at the Parliament.

And if that very Age interpreted it to be legally done, we muſt do ſo alſo ſaith, that learned Commentator.

Anno

Anno 47 *E.* 3. where the Commons having delivered their Petitions, and desired Answers, it was told them that it pleased the King, if any of them would stay to attend and have Answers of their Petitions, that the rest might depart, and it was not unusual in those times for the Commons to have leave to depart, and yet the Lords to stay and dispatch business afterwards, and the same reputed to be done in Parliament *prout Anno 6. E. 3. Gregory n. 16. & 6 E. 3. Hill. n* 7. in fine 1 *R.* 2. *n.* 41. *&* 137. Ro. Parl. 47. E. 3. n. 1.

The Commons did pray the King *that he would advise to do that ease unto his people which he may well do.*

And *Anno* 18. *E.* 3. do pray that the Statute of *Westminster* the 2d may be declared, to which the King answered, *Let the Justices and other Sages be charged to advise of this point until the next Parliament.*

They pray that the Statute for the Kings presentment within three years, &c may stand. Ro. Parl. 20. E. 3. n. 43. and 22.

Whereunto it was answered (probably by the Lords) let *the King be advised and do further by advice of his Councel that which he shall will to be done.*

Eodem Anno they do pray that sufficient men be made Sheriffs and abide but one year, as hath been ordained, and that the said Office be not granted for life or in fee.

Whereunto the King answered, as touching the first point, let the Statute be kept, as touching the 2d *the Councel will* advise the King that it be not done, for they be advised that it is against the Statute.

And note, saith that learned Observator, that the King was then beyond the Seas, and the Lords would not give a direct answer in his absence to what concerned his power to grant an Office in fee.

The Commons shew that the *Scots* entred *England* in the Kings absence, and pray that the Prisoners taken in the Battel at *Durham* may be so ordered, as the damage and danger happen not again. Ro. Parl. 21. E. 3. n. 9.

To which was answered, the King will advise therein with his Grands, and by their advice ordain that which shall be for the best, and so do, as the Commons shall be out of doubt of that which they suppose *by the help of God.*

Which being a matter of State, the Lords would not conclude without the King, but leave it to himself and his Privy Councel.

Ro. Parl. 21. E. 3. n. 36. 50. and 59.

They pray that no Royal Franchiſes, Lands, Fees, Advowſons, which belong to the Crown, or are annexed to it be given away or ſevered.

Unto which was anſwered, The King will adviſe with his good Councel, that nothing ſhall be done in this caſe unleſs it be for the honour of himſelf and the Realm.

Eodem Anno they do pray, whereas holy Church ought to have free Elections, the Pope doth now begin to give Abbies and Pryories by Reſignations, *&c.*

That the King would ordain Remedy therein by advice of his Councel.

Whereunto was anſwered, the King *will adviſe with his good Councel.*

The Commons do ſhew, that whereas the men of the Navy have aſſented to all Taxes currant in the Land, yet their Ships are taken, and many loſt in the Kings Service without any recompence given unto them.

Wherefore they pray, that the King would be pleaſed to ordain thereof Remedy.

To which was anſwered *Le Roys' aviſera.*

Which being a Petition *coram Rege* concerning him and their Wages and Recompence, the Lords referred it wholly unto his Majeſty.

Ro. Parl. 22. E. 3. n. 13.

Anno 22. *E.* 3. they do pray that no Appeals be received of any Apellors of Fellony done out of the County where he is impriſoned.

To which the King anſwered, that will be to make a new Law *whereof the King is not adviſed* as yet.

Ro. Parl. 25. E. 3. n. 37.

Anno 25. *E.* 3. they Petition againſt the payment of Tithe-Wood.

Unto which was anſwered, *the King and his Councel will adviſe of this Petition.*

Ro. Parl. 21. E. 3. n. 21.

They pray, that the Cuſtoms of the Merchants ceaſe, and they make their own conduct.

To which was anſwered, *le Roys' aviſera, and thereupon will anſwer in convenable manner.*

Ro. Parl. 13. E. 3. n. 42.

Anno 13. *E.* 3. they pray that a Juſtice of the one Bench or the other may come twice a year into the Counties beyond *Trent.*

To which the King anſwered as touching this point, *l' Roys' aviſera.*

Which amounted not to a denyal, for the Judges went Circuit thither afterwards.

Anno

Anno 37. *E.* 3. They pray that none be impeached for making Leaſes for Life in time of Peſtilence, nor hereafter for Lands holden in *Capite* without Licence of Alienation.

To which the King anſwered, *This requires a great deliberation and therefore the King will adviſe therein with his good Councel how this right may be ſaved, and the Grands and Commons of this Land eaſed.* Ro. Parl. 37. E. 3. n. 2.

Anno 45. *E.* 3. they Petition for the free paſſage of Woolls.

To which was anſwered, *Eſtoit ſur aviſement.*

Anno 50 *E.* 3. They pray that a Fine levied by Infants and Feme Coverts may be reverſed within three years after they come to years, or their Husbands Death. Ro. Parl. 45. E. 3. n. 29.

To which the King anſwered, *le Roys' aviſera tanque al procheine Parliament de changer le loy devant uſed.* Ro. Parl. 50. E. 3. n. 123.

And it was the obſervation of Mr. *Noy* that faithful and learned Attorney of his late Majeſty, that in the Raign of King *E.* 3. in whoſe time the Anſwers of *le Roys' aviſera* firſt began by reaſon of his being continually in War beyond the Seas, the King or his Councel had no leiſure, or at leaſt no will to anſwer, & ſo in time *s aviſera* became as bad as a denyal, and no other Anſwers given to ſuch Petitions ſhewed, that the King was not pleaſed to grant them.

The Commons alledging, that notwithſtanding the Statute made concerning Lands ſeized into the Kings hands by his Eſcheators, the Lands after Enqueſt taken, and before it can be returned into Chancery are granted to Patentees, and before the Tenant can be admitted to traverſe, the Lands are many times waſted, do pray, that none be outed by reaſon of ſuch Enqueſts until they be returned into the Chancery, and the Occupiers warned by *Scire facias* to anſwer at a day to come, when if they do not appear and traverſe, and find Sureties to *anſwer the profits, and commit no waſt*, if it be found for the King, and that if any Patent be granted, or any thing done to the contrary, the *Chancellor* do preſently repeal the ſame, and reſtore the Complaint to his poſſeſſion without warning the Patentee or other occupier as well for the time paſt as the time to come.

The Anſwer unto which was, *The King willeth and Com-*

Commands upon great pain that the Eſcheators hereafter do duly return all their Enqueſts in the Term and upon the pain heretofore ordained by the Statutes.

And further it is accorded by the Lords of the Realm if it *pleaſe the King*, that before ſuch Enqueſts be returned into the Chancery, the King ſhall not hereafter make any Patent of ſuch Lands in deoate unto any, *&c.* And that the *King of his abundant* grace will abſtain one month after ſuch return, within which time the party may traverſe the Office, and that the King will not make any Patent of ſuch Lands unto any Stranger, and if after any be made, it ſhall be void.

But touching that which is demanded of Patentees made hereafter *le Roys' aviſera.*

It being obſerved by that worthy *Obſervator*, that as he conceived the firſt part was anſwered by the Kings Councel, and by them reported to the Lords, who added the reſt of the Anſwer, *if it pleaſe the King.*

And yet the ſaid Anſwer is vacated upon the Roll, being Croſſed all over with a Pen, and the reaſon thereof given in the margent with a contrary hand to that of the Roll, which ſheweth that it was done after the Parliament was ended, and after the ſaid Roll was ingroſſed, viz.

Quia dominus noſter Rex noluit iſtam reſponſionem affirmare, ſed verius illam negavit pro magna parte dicens, ſoit uſez come devant en temps de ſes nobles progenitors Roys d' Angle terre ont ad eſtre uſe, Et ideo cancellatur & damnatur.

And there can be no queſtion but this anſwer (in the affirmative) was allowed(at the leaſt not denyed) at the time of the Royal aſſent, and that afterwards when the Statute was to be drawn up, the King taking advantage of the words (*ſi pleſt au Roy*) did deny it, and ſo the Roll was vacated.

And the Councel (which ought to be intended the Kings *Privy Councel*, for the Lords were the Kings great Councel, and they or any Committee of them aſſiſted by the Judges whilſt the Parliament was in being were at the diſſolution or proroguing thereof all gone out of their former power or employ, and nothing ought to debar a King from adviſing with his Privy Councel by whoſe Advice, as the Writs of Summons do import his greater

greater Councel was called to aſſiſt them as well as himſelf in the time of Parliament, or after it was ended, and whether the one or the other had juſt cauſe to adviſe the King not to grant that Petition for it, omitted the finding of Sureties to commit no Waſt, and to anſwer the Iſſues to the King, which the Commons offered in their Petition, and the Lords, if *the King ſo pleaſed*, that no Patent be made to any ſtranger of the Lands in debate, which the Commons never deſired.

But the Councel were the willinger to let it paſs, becauſe it was in the Kings Power to deny it afterwards, as he did, whereas,had it been the practice of thoſe times, the Councel would rather have kept back the Anſwer, and not ſuffered it to have been read at the time of giving the Royal Aſſent,

In the ſame Parliament (after the ſaid Petition was granted, and the Aſſent cancelled as aforeſaid) the Commons delivered openly in Parliament a great Roll or Schedule, and another Bill annexed to the ſaid Roll containing about 41 Articles, one of which remains *Cancelled* and *Blotted* out.

And in a Petition do pray the King their Leige Lord and the *continual Councellors* about him (which can be no otherwiſe underſtood than of his conſtant privy Councel) that of all the ſaid Articles compriſed in the ſaid Roll and Schedule or Bill, which are in the file of other Bills in this Parliament, good Execution and true Juſtice be done for the profit of the King our Lord and his whole Realm of *England.*

Whereupon after it was ſaid by the Chancellor of *England* on the Kings behalf to the Knights of the Shires, Citizens and Burgeſſes there preſent, that they ſue forth their Writs (for their Wages) the Prælates and Lords aroſe and took their leaves of the King their Lord, and ſo departed that preſent Parliament.

And after the Parliament ended,the Commons delivered unto the Lords two great Bills, for the Commonalty of *great Yarmouth*, the which Bills with the Indorſements thereupon made by the Lords, were alſo on the *Filace.*

Divers Bills are there mentioned to be delivered, and ſome mentioned to have been anſwered (as happily all were) (ſaith that diligent *Obſervator)* by the Lords of his Majeſties Councel after the Parliament ended.

And therefore no marvel if all the Anſwers were not read on the laſt day of the Parliament, when ſome of them were not made until after the Parliament ended;

Ro. Parl. 51. E. 3. n. 22, 23. and there is a Petition directed to the thrice redoubted *Lord the King* in theſe words following, *viz. Supplie vos Leiges*, the Prælates, Dukes, Earls, Barons, Commons, Citizens, Burgeſſes, and Merchants, of the Realm of *England.*

For *Magna Charta* to be confirmed unto them, and for a general pardon ſetting down the Articles thereof, whereof many were granted and many *qualified as the King and his Councel pleaſed to anſwer the ſame.*

And it was not the uſe and practiſe of thoſe times to keep back any Anſwer that was juſtly diſpleaſing to the King and his Councel, much leſs any other.

Ro. Parl. 11. H. 4. n. 28. For in *Anno* 11. *H.* 4. The Commons petition, that none of the Kings Officers may receive any gift, *&c.*

To which the King anſwered, *le Roy le veult.*

Ro. Parl. 11. H. 4. n. 63. In the ſame year a Petition of the Commons concerning Attorneys was granted by the King, and both the Petitions and Anſwers were ingroſſed in the Parliament Roll together with the reſt, which ſhews plainly, that they were Read on the laſt day of the Parliament for the Royal Aſſent.

Yet notwithſtanding the Kings Councel ſo miſliked them, that when the Clerk attended with the Roll of that Parliament, for the drawing up of that Statute (as the manner was) *thoſe two Petitions and Anſwers were not thought good to be inſerted in the Statute, and therefore they did write in the Margent of the ſaid Roll againſt the ſame, theſe words, Reſpectuatur per Dominum Principem & Concilium,* which is written with another hand, [*& ſi non antea*] *le Roy le veult,* anſwered to a Petition of the Commons without a Statute made there, is only an Ordinance.

Ro. Parl. 15. E. 3. n. 114. & 40. The Commons complain of Commiſſions granted to enquire of divers Articles in *Eyre* (generally) which have not been heretofore granted without Aſſent of Parliament, and of the proceedings of the Juſtices therein contrary to the Law in *aſſeſſing Fines* without regard to the Quality of the Treſpaſs.

To which was anſwered, The King is *pleaſed* that the Commiſſions be examined in his preſence.

Ro. Parl. 21. E. 3. n. 8. In the 21th year of the Reign of King *E.* 3. the Commons

mons pray that their Petitions for the Common profit, and for amendment to have of miſchiefs, may be anſwered and indorſed in Parliament *before the* Commons, ſo as they may know the Indorſement, and thereby have Remedy according to the Ordinance of Parliament.

In the 37th year of the Raign of King *E.* 3. the Chancellor demanded of the Commons the laſt day of the Parliament, after the Anſwers given to the Petitioners were Read, if they would have the things ſo accorded, *mys par void' Ordinance ou de Statute qui diſoient qui bone eſt le matere les choſes par voydes Ordinances & nemy per Statut & iſſint eſt fait.*

And yet thoſe were no otherwiſe drawn up into an Ordinance, than only by entring the Petitions and Anſwers in a Parliement Roll.

In the 9th year of his Raign, the Articles of the Clergy being anſwered, they procured the ſame Articles and Anſwers to be exemplified in ſuch ſort as they were entred in the Roll of Parliament (which is loſt) without penning the ſame in any other form, and were afterwards publiſhed under the great Seal of *England*, with an *Obſervari volumus.* 9 E. 3.

In the Raign of the ſame King it was accorded, that no Grand of the Land or other of what Eſtate or degree ſoever do make prizes or carriages for the houſes of the King, Queen, or their Children, and that by Warrant ſhall make payment thereof; and it was ordained by Statute, that that Accord be cryed and publiſhed in *Weſtminſter* Hall; And our Lord the *King and his Councel willeth the ſame accord be cryed where it behoveth.* Ro. Parl. E. 3.

So as where they prayed the publiſhing thereof at *Weſtminſter* Hall, only the King and his Councel added the publiſhing thereof in *London* and elſewhere.

And the cloſe Rolls of that year do declare that it was publiſhed in all the ſhires of *England.* Ro. Clauſ. 5 E. 3. m. 2. indorſ.

When an Ordinance had its firſt motion and being in the Houſe of Lords in Parliament, and agreed on, and was drawn in the form of an Act of Parliament, it was afterwards to receive the Aſſent of the Commons in Parliament.

In divers Parliaments when the Commons Petitioned for a *Novel Ley*, which the Lords were willing enough to yield unto, and the King to grant, yet for that the King intended

intended not to make any Statute that Parliament, thoſe Petitions have been deferred to another time, and divers others which did not demand a new Law, were granted and reputed for good Ordinances or Acts of Parliament.

Ro. Parl. 21. E. 3. n. 13. As when in 21 *E.* 3. The Commons prayed that in Writs of Debt or Treſpaſs, if the Plaintiff recover damages againſt the Defendant, that he have Execution of the Lands which the Defendant had the day in which the Writ was purchaſed.

Unto which the King anſwered, *This cannot be done without a Statute, whereupon the King will adviſe with his good Councel*, and further do that which ſhall ſeem beſt for his people.

Ro. Parl. 21. E. 3. n. 47. In the ſame year the Commons do ſhew, that whereas before theſe times it hath been uſed, that if Lands had been given to a man and his Wife, and the Heirs of their Bodies iſſuing, and the one dies, no Iſſue having been had betwixt them, the other may commit Waſt without being impeached thereof, that it may *pleaſe our Lord the King to ordain thereof Remedy, and that in ſuch caſe a Writ of Waſt be ordained.*

To which the King anſwered, *Demurge entre les autres Articles dont novel ley eſt demandez.*

Eodem Anno, Shew the Commons, that whereas a Writ of Poſſeſſion doth not lye of Tenements deviſeable, though they be not deviſed to the great damage of all the Commons, that it would pleaſe our Lord the *King and his good Councel*, to ordain by Statute that Writs of Poſſeſſion my lye and hold place as well of Tenements deviſeable in caſe where they are not deviſed, as of others, and that there be ſaved to the Tenants their Anſwers in caſe that they be deviſed.

Whereunto *the King anſwered*, Let it remain amongſt the other Articles, whereof a New Law is demanded.

Ro. Parl. 22. E. 3. n. 20. and 21. In the 22d year of the Raign of the ſame King they do pray, that for that many are diſinherited by *non Claim*, although they have good Right, and namely, thoſe who are not learned in the Law, that *non Claim* be gone and utterly taken away.

To which the King anſwered, This would be to make a New Law, which thing cannot be done for the ſhortneſs of time.

Eodem Anno, Pray the Commons, that where a man

is attainted at the Suit of the Party for Treſpaſs done againſt the Peer, and the Treſpaſſer taken and let by the Marſhal and his Marſhals to Mainpriſe, or at large they be charged with the Damages.

To which the King anſwered, To put an Iſſue to this Article in manner as they pray, it would be to make a new Law, the which the King is not adviſed yet to do.

The Commons do pray, That the Iſſues and Amerciaments of the Green Wax, be certainly expreſſed in the Eſtreats, and that the Sheriffs be allowed in their Accompts for the Hundreds granted from the Crown, which Petitions were referred to the next Parliament, for *that the King had no leiſure, or no intent to make Statutes thereof at any time.* Ro. Parl. 45. E. 3. n. 24, 25.

The Roll of the Parliament of 34 *E.* 3. is loſt.

In the 17th year of the ſaid Kings Raign, the Commons do pray, the King to deſire the Parliament to conſider how he might gain the Arrears of the firſt year, and be put in a way for to gain the ſecond year of the ſaid Aid with leſs grievance to the People.

But the Lords and Commons were ſo exaſperated by the Excommunication threatened by the Archbiſhop of *Canterbury* againſt them all, becauſe the King would not admit him into the Parliament, and that they required a Declaration to be firſt made and agreed upon, that the Peers of the Land, whether Officers or not, be not bound to anſwer the Kings Suit but in Parliament, and it was a whole week before the King would agree unto it.

All which time the Archbiſhop demanded entrance, ſtanding upon his right as *primus Par Angliæ*, and required to be admitted upon pain of Excommunication. At the laſt the ſaid Declaration being firſt agreed upon by a ſpecial Committee of the Lords, the King granted it, and preſently upon the ſame day the Archbiſhop was admitted, who demanded Tryal by his Peers.

But as touching the Aid for the King, the Lords and Commons *incenſed by the Clergy*, flatly anſwered, that if the conditions of the grant in *Anno* 14. were not performed, they would pay none.

After which the Laity and the Clergy exhibited their Petitions (as the manner then was) ſeverally but petitioning the one for the other, as they never did ſince

or before, except in *Anno* 25. *E.* 1. when the Popiſh Clergy had put that great and Victorious King alſo to the like plunge, and their Petitions being anſwered by the Kings Councel (who were the ſtanding Committee for that purpoſe) but the Lords and Commons diſliked thereof, and obtained a Special Committee of themſelves to conſider of the ſame, which being reported and well liked, a Statute was made thereupon by a Committee of the Grands and Commons, which being read before the King, and Sealed with his great Seal, and delivered to the Grands and Commons, divers of the Kings Councel, as the Treaſurer, ſome of the Juſtices of both Benches, the Steward of his Houſe and the Chamberlain were ſworn upon the Croſs of *Canterbury* to obſerve the ſame as much as to them belonged, but yet the ſaid Councellors, Treaſurer, and Juſtices made their *Proteſtation*, that they aſſented not to the making of the ſaid Statute, nor to the form thereof, neither could they keep the ſame if they were contrary to the Laws and Uſages of the Realm, which they were ſworn to obſerve, which diſorderly Parliament ending in *May*, and the King intending not to ſuffer the ſaid Statute to be put in Execution, ſummoned his great Councel to meet at *London* in *July* following, to Repeal the ſame, but there were ſo many of the Prælates called thereunto, although the Archbiſhop was omitted, that he could not effect his deſire therein, wherefore he ſummoned another great Councel to meet at *Weſtminſter* about *Michaelmas* following, whereby the Aſſent of the Earls, Barons, and other wiſe men, (not warning any Prælates) the ſaid Statute was repealed.

In which Statute ſo Repealed, there will appear to have been many inconveniences both to the King and his People, if it had continued in force.

The 2d Chapter whereof touching Tryal by Peers ſwerved very much from the true meaning of *Magna Charta*, cap. 26. *Nullus liber homo*, &c. *For that appointeth his Tryal to be by his Peers, but reſtrains it not unto any place, whereas this limits the Tryals of the Peers of the Land to be in Parliament only, which would be very inconvenient to the King to wait for a Parliament for every Offence, and very troubleſom to the Commons to be ſo often troubled thither, and no way beneficial for the Temporal Lords, for they, whether in Parliament, or out of Parliament, were ever to be tried per Nobiles Pares.* The

The 4th Chapter had Clauſes, that the King ſhould place New Officers when they fall but by accord of the *Grands, which ſhall be neareſt in the Country, which is directly againſt the dignity of the King, to be thus limited in the choice of his Officers, and prove as inconvenient to the Subject, if thoſe Grands ſhould not be men of Merit.*

That the King ſhall take all Offices except the Judges, *&c.* into his hands the 3d day of every Parliament, and the Officers be put to anſwer every complaint, and if they be attainted, ſhall be judged by the Peers in Parliament, and the King ſhall cauſe Execution to be pronounced and be done accordingly without delay, which *is altogether unjuſt and againſt all Right and Reaſon and againſt the Law, to put any man out of his place before Judgment and Conviction, and againſt the Right and Dignity of the Crown to bind the King to Execute the judgment of the Peers;* And it is *obſervable, that it was not in the Petition, but was added afterwards by the Committee, who drew up the Anſwer to the ſame, and ſo was the 4th Clauſe penned by the ſaid Committee much more beneficial for the Subjects than was in the Petitions or Anſwers.*

Which particulars *well conſidered, no man can blame the King for his diſſimulation at that time, and his Repeal of that Statute.*

In the Parliament of 18 *E.* 3. where the King having ſummoned a former Parliament in the year before, and therein pacified the Lords and Commons ſo well as they all agreed, that the ſaid Statute made in the 15th year of his Raign, ſhould be Repealed and taken away, and looſe the name of a Statute, for as much *as it is prejudicial and contrary to the Laws and Uſages of the Realm, and to the Rights and Prærogatives of the King.*

But for that ſome Articles were compriſed in the ſaid Statute which were reaſonable, and according to the Law and Reaſon; It was accorded by *our Lord the King and his Commons*, that of ſuch Articles and others accorded in this preſent Parliament, a new Statute be made by the advice of the Juſtices and other Sages, and held for ever.

And no Statute being made, the Commons prayed the King to have the Anſwers to their Petitions in writing in manner of a *Patent under the great Seal of England* for every County, City and good Town, one Patent *for the*

the comfort of the People, which the King granted by the advice of the Prælates and Grands, *moſt of which were the Judges, Officers of State, and Privy Councellors of the King, which Patent was ſealed and entred in the Patent Roll, under which was written, la Charter enſealer pour les Communs.*

After which the King ſummoned three Parliaments in 20, 21, *and* 22. But no Statute was made in either of them. The next Statute was made in *Anno* 25 *E.* 3. in which year the King had two Parliaments and Statutes made, but mention nothing by whom they were made, only the Commons do pray, that the Petitions reaſonably prayed by the Commons be granted, confirmed and ſealed before the departure of the Parliament.

And in the ſame Parliament *n.* 43. The Commons praying, that the Statute made the laſt Parliament touching Reſervations, be publiſhed and put in Execution.

Unto which the King anſwered, *Let the Statute be viewed and recited before the Councel, and if need be in any point, let it be better declared and amended, as the Statute of the King and the Realm be kept.*

By which it appeareth, that the *Councel* penned the Statutes.

Anno 27. *E.* 3. The King ſummoned a great Councel, whither many Commons were ſent, and it was agreed, that the Ordinances of the ſaid *Councel* ſhould be recited in the next Parliament.

Anno 28. *E.* 3. *n.* 16. The Commons prayed, that the Ordinances of the Staple, and all the other Ordinances made at the laſt great Councel, which they have ſeen with great deliberation, be affirmed in this Parliament, and held for a Statute to endure for ever.

Unto which the King and Lords agreed with one mind, ſo *always, that if any thing be to be put out, let it be done in Parliament when need ſhall be, and not in any other manner.*

And accordingly there is an *Addition* at the end of the firſt Chapter againſt Proviſors, as in the *Statute* Roll and Print, but not in *rot. Concilii Anno* 27. nor yet in the *Parliament* Roll *de Anno* 28. *E.* 3. *That whole Addition ſeeming to be added by the Councel alone, and yet ſhewed to the Parliament for their conſent before the ſaid Statute was publiſhed.*

And

And it is obſervable by that of 27 *E.* 3. *n.* 43. and this of 28 *E.* 3. *n.* 16. *That the Statutes were moſt uſually made long after the Parliament ended,* although in the Parliaments of 14, 15. *and* 18 *E.* 3. they were engroſſed and ſealed in the time of Parliament *ſedente curia.*

Statutes were made when ſome of our Kings were beyond Sea, which happened often in the Raigns of *E.* 3. *and H.* 5.

Anno 25. *E.* 1. a Parliament was held at *London* when the King was in *Flanders* by his Son *Edward,* and the Statute made therein was put into the form of a *Charter or Patent.*

Anno 13. *E.* 3. were two Parliaments whilſt the King was beyond the Seas, *but no Petitions or Statutes in either.*

Anno 14. *E.* 3. a Parliament was holden in the Kings abſence beyond the Seas by his Son *Edward* Duke of *Cornwal* Guardian of *England,* but no Petition of the Commons nor Statute.

Anno 23. *E.* 3. a Parliament was held in the Kings abſence by *Lyonell* the Kings Son, Guardian of *England,* and divers Petitions of the Commons were then anſwered, but no Statute made thereof.

Anno 51. *E.* 3. the King could not be preſent at the beginning of the Parliament, but granted a Commiſſion to *Richard* Prince of *Wales* to begin the ſame, *Et ad faciendum ea quæ pro nobis et per nos facienda fuerint.*

And yet the Lords went to the King (lying ſick at *Sheene*) the day before the Parliament ended, where he gave his Royal Aſſent unto the Anſwers made unto the Petitions, and commanded them to be read the next day in full Parliament, but yet no Statute was made thereon, notwithſtanding the Commiſſion, for the Commiſſion was but for matters to be done in Parliament as the words *Ibidem facienda fuerint* do import.

Anno 8 *H* 5. a Parliament was held in *England* by *Humfrey* Duke of *Glouceſter,* the King being then beyond the Seas, wherein the Commons petitioned *n.* 16. That whereas it had been told them by divers Lords in this Parliament that the Petitions to be delivered to the Duke of *Glouceſter* Guardian of *England,* ſhall not be ingroſſed before they be firſt ſent beyond the Seas to

our Soveraign Lord the King to have therein his Royal Aſſent and Advice, wherefore *may it pleaſe the ſaid Lord Duke* to ordain by authority of this preſent arliament, That all the Petitions delivered by the Commons to the ſaid Duke in the Parliament be anſwered and determined within this Realm of *England* during the ſaid Parliament, and if any Petition remain not anſwered and determined during the ſaid Parliament, that they be held for void and of none effect, and that this Ordinance be of force and hold place in every Parliament to be held in the Realm in time to come.

To which was anſwered, *Soit aviſe per le Roy.*

Howſoever it may be conceived, that all the Petitions with the Anſwers were ſent to the King for his Advice and Aſſent which of them ſhould be in the Statute, and which not, for in that Statute conſiſting of three Chapters which was made that year, there are only two of the anſwers to their Petitions determined that is made into the ſaid Statute, *viz. pet. n.* 4. in the 2d *cap. and pet. n.* 7. in the 3 *cap.* The Commons did not Petition for *any thing contained* in the 5th *cap.* neither is there any thing recorded thereof in that Parliament Roll; & although one other of the Commons Petitions *n.* 15. for Women Aliens the Widows of *Engliſhmen* to have Dower was granted abſolutely, and the Petition *n.* 8. againſt Retail of ſweet Wines altogether, and the Petition *n.* 9. That *Gaſcoign* Wine ſhould not be ſold for above 6 *d.* the Gallon were granted with be it as *is deſired if it pleaſe the King.*

Yet neitheir of theſe Petitions are in the Statute.

The uſual time for making the Statutes, was after the the end of every Parliament, yea after the Parliament Roll was engroſſed,

Anno 3. *R.* 2. The Temporal Lords met in the great Councel after the Parliament was ended, where the Clerk read unto them the Enrolment of the Ordinance in that Parliament touching the power of the Juſtices of the Peace.

At which time it is probable the Statute was made, and that Ordinance quite altered.

Anno 11 *H.* 4. *n.* 28. *and* 63. The Petitions and their Anſwers agreed on in Parliament, are entred in the Roll with the reſt, which paſt into the Statute of that year, and in the margent was written with another hand, *Re-*

Spectuatur

ſpectuatur per dominum Principem & concilium, and neither of thoſe are in the Statute, by which it is very plain, that the Kings Councel met after the Parliament was ended to conſider of the Petitions which were anſwered, and which of them were fit to be put into the Statute, and which not, and when the Clerk attended with the Parliament Roll, the Councel thought fit to reſpite thoſe, and to deny them they could not.

And it is evident by the many additions in the Statutes and alterations thereof, from the Anſwers agreed on in Parliament, that the Statutes were made afterwards.

And many Chapters in ſeveral Statutes are not at all entred in the Parliament Rolls, as 27. *E.* 3. *cap.* 5, 6, 7, 8. *Eodem Anno cap.* 7. & 19. 2. *R.* 2. *apud Weſtm. cap.* 3. *Eodem Anno cap.* 15 9. *R.* 2. *cap.* 3, 4. & 5. 11. *R.* 2. *cap.* 4. 5. & 6. 14. *R.* 2. *cap.* 7. 15. *R.* 2. *cap.* 4. & 12. 16. *R.* 2. *cap.* 1. & 6. 18. *R.* 2. *cap.* 8. & 9. *Anno* 8. *H.* 5. *cap.* 1. 8. *H.* 6. *cap.* 28. & 29. 18. *H.* 6. *cap.* 3. 27. *H.* 6. *cap.* 3. The uſe being for the Clerk to bring the Bills themſelves as well as the Roll before the *Kings Councel*, who penned the Statute out of the original.

The Statutes were antiently drawn into a form of Law, and certain Articles out of the Petitions and Anſwers.

Anno 25. *E.* 3. *n.* 23. The Petition was, *quæ nul homine ſoit arcle de trover gents d' Armes Hoblers ne Archers autres quæ ceux quite ignont per tiel ſervice ſil ne ſoit par common Aſſent & grant en Parlement par ceo eſt contre la droit du Royalme.*

Unto which was anſwered, *le Roy ottroie à ceſt Petition.*

Yet the Statute hereupon made omitteth the words, *viz. For it is againſt the right of the Realm.*

The 11th Chapter omitteth the clauſe in the Petition, *viz. And not of other fees as have been levied of late.*

In the ſame year Petition *n.* 18. *It is prayed, that nul Enditour ſoit mis en Enqueſt ſur la deliverance de la Enditee nient plus en treſpaſs qu en felonys 'il ſoit challenge pour celle cauſe per celui qu' eſt enditee.*

The Statute thereupon *cap.* 3. *Is in rot. ſtatut. Auxint accorde eſt que nul Enditour Soit miſen Enqueſt ſur la deliverance*

verance del Enditee de treſpaſs ou de felonys' il ſoit challenge pour tiel cauſe per l' enditee.

Which is more favourably penned for the Subject, taking away all diſpute, whether the *Enditor* might have been of the Jury or not, in caſe of Felony, before the making of this Statute.

And ſuch kind of alterations happen often.

The 4th Chapter of this Statute agreeth with the Petition, *n.* 19. *Save that after the words preſentment, de bons & loy al & duviſne,* there is added in the Statute, *ou tiel face ſe farce,* where ſuch act is done which explains out of which viſne the preſentment is to be.

But the Print is very falſe, for there it is ſaid, that it ſhall be lawful for every man to Exchange Gold for Silver, ſo as no man can hold the ſame as exchanged, nor take the profit, *&c.* Whereas in the Anſwer to the Petition and Statute Roll it is, that it ſhall be well lawful to any man to exchange Gold for Silver, or for Gold or Silver, ſo as no man can hold a common exchange, nor nothing take of the people for the ſame exchange.

The 13th Chapter of that Statute *Anno* 15. is taken out of the Anſwer to the Petition *n.* 22. and ſomewhat out of the Petition alſo.

The 15 *cap.* out of the Petition *n.* 41. and the Anſwer alſo.

The 13th *cap.* of the Statute of 28 *E.* 3. was made part out of the Petition and Anſwer *n.* 47. and part out of the Petition alone *n.* 55. and the laſt part thereof out of the Petition and Anſwer *n.* 50. but the Statute hath more concerning Tryals of Merchants *n.* 55. and for Marriners *n.* 50. than is in the ſaid two Petitions and Anſwers.

Of the 16th Article of the Statute of *Weſtm* two touching conditional grants, the anſwer is referred to the Judges to adviſe thereof till the next Parliament.

The Statutes thus drawn into divers heads or Articles were ſhewn to the King, & upon his approbatio engroſſed ſometimes with a Præamble, & an *Obſervari volumus* in the concluſion, and at other times without any præamble at all, and by Writs ſent into every County to be proclaimed.

Anno 14. *E.* 3. *n.* 7. the King *commanded* the Statute to be engroſſed, ſealed, and firmly kept.

15 E. 3. *n.* 42. The Statutes were read before the *King*, *ſealed* with the Kings great Seal, and delivered to the *Grands* and Knights of the Shire, *&c.*

The Statute *de Tallagio non concedendo*, &c. made in 25 E. 1. *is no where enrolled, but is mentioned in the antient Collection of Statutes, it was ſealed and ſworn unto by the Biſhops and great Lords.*

The ſecond Chap. That Judgments contrary to the ſaid Charters, ſhall be void, *is out of the latter part of the fourth Article.*

The Third Chap. That the ſaid Charter ſhall be read twice in every year, *is out of part of the ſixth Article.*

The Fourth Chap. That Excommunication ſhall be pronounced againſt the Infringers of the ſaid Charters, *is out of the reſt of the ſaid ſix Articles.*

The fifth, ſixth, and ſeventh, Chap. againſt Taxes, Aids, *&c.* out of the firſt, ſecond, and third Article, *with two ſavings which are not in the ſaid Articles.*

The confirmation of *Magna Charta & Charta de Foreſta* were confirmed under that Kings great Seal by Letters Patents.

And the great Charter of *Henry* the third by *Inſpeximus Teſte Edwardo filio ſuo.*

The like confirmation alſo in 28 of his Raign being *not enrolled in the Statute Roll.*

The præamble of the *Articuli Super Chartas*, is falſe Printed, *for in the Record it is, our Soveraign Lord the King hath again granted, renewed and confirmed the ſaid Charters at the requeſt of his Prælates, Earls and Barons, aſſembled in Parliament.*

And hath ordained, enacted, and eſtabliſhed, certain Articles againſt all them that offend contrary to the points of the ſaid Charters.

Wherein he was enforced by the great Lords and the Peoples murmuring to omit the *Salvo jure*, which he would have inſerted.

But at his return from the *Scottiſh* Wars in *Anno* 33. of his Raign, repented him thereof, and *procured the Pope to abſolve him of his Oath, for that he was enforced thereunto.*

The Statutes for *Ireland* were directed to the chief Ju-

ſtice of *Ireland* to be there proclaimed.

Anno 21. E. 3. The Statute of the Leap-year, or rather as it is in the Record, *de modo ſurgendi de malo lecti*, is enrolled in *dorſo rotuli Parliamenti*, where Proclamations were then uſually entred, and directed to the *Chief Juſtice of the Bench.*

The Sentence of Curſe in *Anno* 37. *H.* 3. was no Statute, though proclaimed in the preſence of the King and his Nobles, ſealed by the Archbiſhop and Biſhops, *but not by the King.*

All other Statutes of *H.* 3. were proclaimed.

In *Anno* 4. E. 3. The extent of *Mannors*, and the Statute *de officio Coronator*, &c. *are not enrolled*, nor the Statute of *Bigamy* made in the ſame year, though it was publiſhed, and hath the præamble of a Statute.

Anno 7. E. 1. The Statute *de defenſione portandi arma*, was ſent by Writ Patent to the Juſtices, and by another Writ Patent to the Treaſurer, and Barons, of the Exchequer to *be there enrolled.*

And *Eodem Anno* the Statute of *Mortmain* is directed to the Juſtices in *Banco*, to be there enrolled in Rot. Statute.

9 E. 1. In the Print, the correction of the Statute of *Glouc.* is directed in the form of Letters Patents to the Juſtices, but recorded to be done *Anno* 9. E. 2. Ro. *Glouc. Anno Eodem m* 10.

Anno 12. E. 1. The Statute of the Exchequer is directed to the Treaſurer and Barons of the Exchequer, Ro. *Claus.*

13. E. 1. The Statute of *Acton Burnel* hath no Præamble, or any form of a Proclamation, and yet it is enrolled in Ro. Stat *m.* 46. *Where there is one clauſe, that the King ſhall have one penny out of every pound, to maintain the Clerk, and another that that Ordinance ſhall not extend unto Jews, both which are omitted.*

This Statute is alſo enrolled Ro. Claus. *Anno* 11. E. 1. *In dorſo*, which ſhews the true year when it was made.

The Statute *de circumſpecte agatis* was but an Ordinance upon the complaint of the Biſhop of *Norwich.*

Anno 18. E. 1. The Statute *Quia emptores terrarum* hath a Præamble and concluſion in form of a Statute, and yet is not

not enrolled in the *Statute* Roll, the firſt in the Statute Roll being that of *6. E.* 1.

The Statute of Waſt is but an Ordinance upon a debate in Parliament, *and the Juſtices commanded to proceed accordingly.*

Anno 9. *E.* 2. The Articles for the Clergy are the Petitions of the Clergy, and the Anſwers thereunto are *ad verbum* Exemplified under the great Seal, with an *Obſervari volumus*, and not drawn up into the form of a *Statute.*

Anno 15. *E.* 2. The Statute of *Carliſle*, is by Writ ſent to the *Juſtices of the Bench*, and ſealed in the time of Parliament, as may appear by the date thereof at our Palace of *Carliſle.*

Articles concerning the Kings Prærogative, and the Anſwers thereunto, are only recited, and not drawn up in the form of a Statute, and ſeems to be but an Ordinance made in Parliament, and the *Juſtices of the Bench*, directed to obſerve the ſame, elſe it had not been regiſtred, ſaith that very able *Commentator* Mr. *Noy*, in our antient Manuſcripts, the venerable Conſervators of our *Statute* Laws, and otherwiſe had long ago periſhed with our Parliament Rolls, whereof divers are miſſing of the Subſequent times, all of the former to 4 *E.* 3. Yet the Statute Roll, from *6. E.* 1. are extant, but divers Statutes omitted therein, even from the ſaid time.

9. *E.* 3. The Statute of Money made at *York*, was directed to the Sheriff to be proclaimed, it may be for haſt upon the approaching Fairs.

Of 18. E. 3. Upon the Petition of the Commons that Merchant ſtrangers might buy Woolls freely, Proclamation was immediately ſent to the Sheriffs for that purpoſe. Ro. Parl. 18. E. 3. in dorſ. n. 49.

The revocation of the Statute of *Anno* 15. *E.* 3. and the Statute againſt *Maintenance Anno* 20. *E.* 3. being Acts made in the Kings great Councel and not of the Parliament, were directed to the Sheriff to be publiſhed, and ſo was the Statute of Labourers in the 23 year of that Kings Raign, and alſo to the Biſhops.

And all other the Statutes of *E.* 3. to the Raign of *Henry* 6. were drawn up in the form of Letters Patents, or with a ſhort Præamble, that the things following were ordained in Parliament, and ſent with a Writ to every

every Sheriff to be publiſhed, whereof ſome remain yet in the Tower of *London* unſent in the time of *Henry 6.* Probably becauſe that about that time the invention of Printing was brought into *England.*

Inſomuch as in thoſe times,

1. No Statute hath been made (in ſome Parliaments) although ſometimes agreed upon.
2. Many things have been omitted.
3. Many things added.
4. A Statute hath been made wherein the Commons gave not their Aſſent.
5. Wherein neither Lords or Commons aſſented.

Anno 18. *E.* 3. The Commons exhibited a Petition containing 12 Articles, which were preſently anſwered, and together with the Subſidy grant was made into a Statute, ſealed, delivered and publiſhed, *Sedente Curia.*

And afterwards in the ſame Parliament they exhibited another Petition againſt Proviſions from *Rome*, which was agreed and aſſented unto by *the King, Earls, Barons, Juſtices, and other Sages of the Law, that the matters contained in the ſaid Petition, ſhould be put into a covenable form according to the prayer of the* Commons *n.* 32. & 39. *and yet no Statute at all made thereupon.*

Anno 25. *E.* 3. *n.* 13. The Commons Petition againſt Proviſions from *Rome*, which was under-written for an Anſwer to the ſame, *viz. It is agreed that the Anſwer to this Petition ſhall be put into the Statute*, and ſo the Statute was entred by the Clerk amongſt the reſt in the Parliament Roll (a thing then uſual) *and yet that was not publiſhed with the other Statutes.*

For in the next Parliament in the ſame year *n.* 43. *The Commons prayed it might be publiſhed and put in Execution.*

Anno 3. *R* 2. *n.* 38. The Commons Petition againſt Extortions, was abſolutely granted.

And notwithſtanding the proteſtation of the Prælates to the contrary, it was enrolled, and yet afterwards at a great *Councel the Lords then aſſembled ſaid, it was not their intent it ſhould be enrolled, and no Statute was made thereon.*

Anno 11. *H* 4. *n.* 28. & 63. Two ſeveral Petitions of the Commons were abſolutely granted and entred in the Parliament

Parliament Roll, *and afterwards when the Councel met to draw up the Statute they were reſpited.*

Anno 25. *E.* 3. *n.* 59. and *cap.* 3. Tit. Collations all this Clauſe was omitted out of an anſwer to a Petition of the Clergy, *viz. It is accorded by the King, the Grands, and Commons, that after Judgment rendred for the King and the Clerk in Poſſeſſion, the Preſentment cannot be repealed.*

And there are added in that Statute two ſpecial Clauſes for the Clergy which were not in the Anſwer.

And afterwards *Anno* 13. *R.* 2. *n.* 59. *cap.* 1. Collations, the like Clauſe for the *King is wholly omitted*, viz. *And further, the King willeth, that Ratification granted for the incumbent after that the King preſented and commenced his Suit, ſhall be allowed hanging the Plea, nor after Judgment given for the King, but that ſuch Judgment ſhall be fully executed as reaſon demandeth.*

Anno 37. *E.* 3. *n.* 10. The Commons petitioned, that the grand Charter, and the Charter of the Foreſt, and the Statute made *Anno* 36. of our Lord the King that now is, touching Pourveyors, and the other Statute made in his time, and the time of his Progenitors, be firmly kept and maintained in all points, and be duly Executed according to the Law, and that Writs be granted to every one who will ſue upon every point, contained in what Statute ſoever.

And if any Juſtice or Miniſter be dilatory to any Statute thereof made, that ſo much as he hath done to the contrary be held for nothing, and erroneous.

To which was anſwered, *Il pleſt au Roy.*

And yet notwithſtanding that Petition was thus abſolutely granted and agreed upon, the Statute made thereof *cap.* 1. is only, that *Magna Charta*, and all other Statutes, ſhall be kept and duly Executed, omitting all the reſt.

Anno 45. *E.* 3. *n.* 14. They Petition that King, that it *pleaſe him of his Grace and Majeſty, to command, charge and ordain*, that the great Charter, and the Charter of the Foreſt be kept and held in all points, and that the Franchiſes, Cuſtoms, and Liberties heretofore uſed be held and kept in form as they were granted or uſed.

To which was anwſered, *Re Roy le voet.*

And yet in the Statute thereon, *cap* 1. is no more than

thus ; It is ordained that the *great Charter, and the Charter of the Foreſt be held and kept in all points, and omitteth all the reſt.*

Anno 2 *R.* 2. *n.* 27. *cap.* 1. The Statute *is penned much larger for the Liberties of the Church, than is in the Petition or Anſwer, and the ſalvo for the Kings Regality, is wholly omitted.*

Anno 3. *R.* 2. *n.* 26. *cap.* 1. They agree for the Liberties of the Church, but *Magna Charta, and Charta de Foreſta are wholly omitted in the Statute.*

Anno 3. *R.* 2. *n.* 37. *cap* 3. Touching Proviſions, *the ſpecial abuſes of the Pope are omitted.*

Anno 13. *R.* 2. *n.* 40. *cap.* 3. In the Oath which the Juſtices are to take, *the words duly, and without favour are omitted.*

Anno 25. *E.* 1. *cap.* 5. & 7. (Touching Aids, Taxes and Priſes granted to the King, but not to be taken for a Cuſtom ; And a releaſe for Tole taken by the King, for Wooll, and a grant that he will not take the like without common conſent, and good will) were agreed by the Lords and Commons in that Parliament, ſealed with the Kings Seal, and the Seals of the Archbiſhop, and Biſhops, who with the Kings Councel were voluntarily ſworn to the performance thereof.

Anno 28. *E.* 1. *cap.* 2. The ſaving was added by the King *and his Councel, at the drawing up of the Statute, as appears* by the words therein, *viz.* The King and his Councel, *do not intend by reaſon of the Statute.*

Item cap. 20. *At the concluſion was added a ſaving for the King.*

5. *R.* 2. *cap.* 5. For Preachers without the Commons Aſſent repealed, 1 *E.* 6. 12. & 1 *Eliz.* 1.

The Aſſent of the Lords and Commons in Parliament, one or both expreſſed, included, or implied in that of King *E.* 3. or *H.* 4's grant of the Dutchy of *Cornwal* and annexing Lands thereunto, do as in the many antient grants of the *Saxon* Kings, ſignify no more than an approbation, and confers neither *jus in re*, or *poteſtatem dandi vel concedendi* ; And ſo in the caſe of the entailed, and reſtored Lands, and the Honour and Earldom of *Oxford* granted by King *R.* 2. to *Awbrey de Vere* in the 16th year of his Raign *n.* 151.

And the like may be believed where ſome things have been

been done, or Grants or Charters ſaid and entred in the Parliament Rolls, to be *Authoritate Parliamenti*, which as the Judicious Mr. *Noy* hath obſerved, do not without other circumſtances prove a common Aſſent of Parliament, for that ſome of the Anſwers to divers Petitions of the Commons in Parliament *temporibus R.* 2. & *H.* 4. were put upon the Files only, and not entred in the Parliament Rolls.

And the ſame words are in divers Acts of Parliament, mentioned to be inrolled in the Parliament Rolls of 4. & 7 of *H.* 4.

Anno 4. *H.* 4. The Commons pray, that the moſt ſufficient *Welſhmen* of every Lordſhip be choſen to keep the Peace, and to anſwer for all Felonies, *&c.* as they were wont to do unto the *Conqueror of Wales* in the time of King *Edward*. Ro. Parl. 4. H. 4. n. 95.

To which the King anſwered, let this Petition be committed to the Councel to be thereof adviſed, and the ſame Councel have power to provide Remedy therein, according to their diſcretion by Authority of Parliament.

In the 7th year of the Raign of the ſaid King, the Commons prayed the King, that certain Petitions exhited by *Bartholomew Verdon*, and his companions, might graciouſly be exploited, *per authoritatem Parliamenti*, whereupon the King by the Advice and Aſſent of the Lords in Parliamenr, and at the requeſt of the Commons granted the ſaid Petition, as by the Endorſement thereof filed amongſt the ſpecial Petitions may appear.

But afterwards *Anno* 8. *H.* 5. *n.* 12. The Commons perceiving thoſe words, (*Authoritate Parliamenti*) often uſed by the Lords alone in their Anſwers to Petitions exhibited to the Receivers, appointed by the King, whereby the parties complained of, were oftentimes conſtrained to anſwer Cauſes, determinable at the Common Law, before the Kings Councel, or in the Chancery, exhibited the Petition enſuing, *viz.*

Praying the Commons in this preſent Parliament, that if any man ſue a Bill or Petition, with theſe words, (*authoritate Parliamenti*) and the Anſwer be made, let this Bill or Petition be committed to the Councel of the King, or to the Councellors of the King to execute and determine the contents thereof (whereas the ſaid Bill or Petition

tion is not by the Commons of the Land, required to be affirmed or aſſented unto) that no man to ſuch a Bill or Petition, unleſs the Aſſent or Requeſt of the *Commons* be endorſed, *be bound* to anſwer contrary to the Laws of the Realm.

Unto which was anſwered, *ſoit aviſer per le Roy.*

At the foot of many Charters and Writs, have been indorſed, *per ipſum Regem & totum concilium in Parliamento*, and ſometimes, *per ipſum & concilium ſuum in Parliamento*, and at other times, *per petitionem in Parliamento.*

Anno 6. H. 6. 1. Part pat. *n.* 1. *Pro Abbate & conventu de Welhow de aviſamento Dominorum ad ſupplicationem Communitatis.*

Et Teſte Rege apud Weſtmonaſterium per petitionem in Parliamento & pro 10 *l. ſolut. in Hanaperio.*

Anno 4. *H.* 4. *n.*116. The Commons pray, that whereas one *Thomas Taynleur* Approver, had appealed divers honeſt men very falſly, for which he was drawn and hanged; it would pleaſe the King to grant out Writs of the Chancery, unto the Juſtices, to ceaſe all proceſs againſt the party ſo falſly appealed, which was granted *aſſenſu Prælatorum Procerumque*, &c. And the form of the Writ there ſet down and underneath was written *per petitionem in Parliamento.*

In publick Ordinances the words of ceremony are ſeldom expreſſed, only the matter agreed upon is recorded, but the manner and form of the agreement, and by whom in particular, is moſt uſually omitted, yet neceſſary to be underſtood, for ſuch was the practice and uſage of that age.

In caſes which require no new Law, thoſe Acts were ſeldom entred; it was thought ſufficient if they were on the file *prout Fitz Herberts Abridg. tit.* Parliament *Anno* 33. *H.* 6. *n.* 17.

Neither did thoſe neceſſarily require the Common Aſſent of Parliament, for the Petitions granted *Authoritate Parliamenti* do not prove the *Common Aſſent*, unleſs they were exhibited by the Commons, otherwiſe they were ſuch only as were delivered to the Receivers of Petitions appointed by the King at the beginning of every Parliament, and they were anſwered by the *Tryers* then alſo appointed for the ſame, amongſt whom none of the

the Houſe of Commons, were ever appointed, and thoſe anſwers, or the matters themſelves being heard before the Lords in Parliament as Petitions of great weight and difficulty alwaies were, for ſuch alwaies had the additions of *Authoritate Parliamenti*, the firſt of them beginning *tempore Richardi* 2.

And whether thoſe words be added or omitted, yet ſuch Anſwers ever did and will bind, *ſo as they be not contrary to the Laws and Cuſtoms of the Land.*

There needed no publication of Ordinances, touching the *Chancery*, when the *Chancellor* was preſent, nor concerning the *Courts of Juſtice*, when the *Judges* were preſent in *Parliament*, neither touching the grievances of the Kings *Miniſters* and other Officers, for ſome of them were ever preſent in Parliament.

And the Commons were ſo careful to have their Parliament Rolls engroſſed as in 2d *Henry* 4. *n.* 26. divers days before the end of the Parliament they did by their Speaker beſeech the King that the buſineſs done, and to be done in this Parliament, be enacted and engroſſed before the departure of the Juſtices, *whilſt they have them in their memory.*

Unto which it was anſwered, that the Clerk of the Parliament ſhould do his endeavour to enact, and engroſs the Subſtance of the Parliament, *by advice of the Juſtices, and after ſhew it to the King and Lords in Parliament to have their advice.*

By which it appeareth, that the Parliament Roll was not drawn up by the Clerk alone *ex officio*, but with the advice of the *Juſtices*; and although it was here ſaid, that it ſhould be afterwards ſhewed unto the King, and Lords to be approved of by them, yet it is not to be thought that the King and Lords did uſually examine the ſame, but the Judges advice was uſually had therein, how elſe could the Commons require the ſame to be ingroſſed *whilſt it remained in the Judges memory?*

The Parliament Roll of 11. *E.* 3. *For the creation of his Son Prince Edward Duke* of *Cornwal*, and *annexing Lands thereunto is loſt.* Ro. Parl. 5. H. 4. n. 22.

But in *Anno* 5. *H.* 4. The Commons exhibiting their Bill in Parliament in the behalf of the Prince to be made *Duke* of *Cornwal*, did recite that grant of King *E.* 3. to

have been made by the Kings Letters Patents, and pray that the Lands *which were annexed might not be aliened, and that which had been aliened, reſeiſed.*

Annis 7. & 8. *H.* 4. *n.* 65. The Speaker in the name of the Commons prayed the King and the Lords in Parliament, that certain of the Lords Spiritual and Temporal whom it pleaſed them to appoint, and a certain number of the Commons whoſe names he had written in a Schedule or any 11. 10. 9. 8. 7. or 6. of them might be at the Enacting and Ingroſſing of the Rolls of Parliament, and that his Prayer and Petition might be enacted of Record in the Roll of Parliament, which requeſt the King graciouſly aſſented unto.

Anno 1. *H.* 4. *n.* 45. The Commons agreed, that the King might moderate the Statute againſt Proviſors.

Anno 2. *H.* 4. *n.* 45. They complain to the King, that the ſame was otherwiſe entred in the Parliament Roll, than was agreed on by them, and that it might be examined, which the King granted, but upon Proteſtation that it ſhould not be drawn into Example. Whereupon the Lords Spiritual and Temporal, and the Juſtices, and Councellors of the King, being ſeverally examined in full Parliament, in the preſence of the King, and all the Commons, teſtified that the ſaid moderation was duly and juſtly entred and Enacted in the Parliament Roll, in manner as it was ſpoken and agreed on, by the ſaid Lords and Commons, the which entring and enacting ſo made *the King remembred to be well and truly done as it was agreed on in the laſt Parliament.*

So careful were the Commons of the Parliament Rolls, the only Treaſury of thoſe publick Ordinances, and yet never petitioned touching the Roll of Statutes, nor to be preſent when they were made, for they knew full well that that did belong meerly to the King and his Councel.

But only did put his Majeſty in mind in *Anno* 2. *H.* 5. *n.* 10. That the Statute ought not to be drawn up contrary to the meaning of the Petitions which were then granted, and afterwards to prevent that inconvenience, they themſelves framed their Bills in form of a Statute, which order continueth to this day.

Rp. Claus. 12. E. 2. m. 5. *Anno* 12. *E.* 2. The Petition of *Hugh Audly* and *Margery* his Wife concerning the Lands of the Earl of *Cornwal*

wal exemplified, was exhibited in the Parliament at *York* at *Michaelmas*, and anſwered in the next Parliament at *Eaſter* following.

Some had **W**rits out of the *Chancery* for the ſetling and confirming of what was granted to them by Parliament *prout Anno* 16. *R.* 2. For livery to be made to *Awbrey de Vere* of the Lands entailed unto him.

The Act of Parliament of 28 *E.* 1. being granted and publiſhed with a *ſaving to the Right and Prærogative of the Crown*, was afterwards upon the murmuring of ſome of the Lords and Commons againſt that *Proviſo, republiſhed* without it.

Statutes were not Enrolled, until the King had allowed thereof, and commanded it to be ingroſſed, ſealed and kept.

Things perpetual were made into a *Statute* and temporary into an *Ordinance*, or ſignified by Letters Patents.

In the Parliament of 15 *E.* 3. A Statute was in a manner extorted from that glorious King, and a ſpecial Committee appointed to pen it, againſt which the Kings Councel proteſted, and the King by his Proclamation or Declaration revoked the ſame for that he aſſented not, but diſſimuled, which remains upon record to this day to that Kings great diſhonor, if not rightly underſtood.

Which that great Attorney General Mr. *Noy* undertook to clear in this manner.

The Commons having granted the year before a very large Subſidy to the King toward the *French* Wars to be paid in two years under divers conditions, and the Statute drawn up by a ſpecial Committee of Lords and Commons, who took great care that the King ſhould be duly anſwered the ſaid grant, and the Subjects enjoy his Majeſties graces in thoſe conditions expreſſed, and the King going into *France* with full confidence to receive the ſaid money accordingly, but being abuſed by his Officers that which was paid ſo ſpent as little came to his hands, ſo as for want of money he was enforced to accept of a Truce when he was in probability of a great Victory if not of the Conqueſt of all *France*, whereupon returning ſuddenly, he fell firſt upon the Officers, who excuſing themſelves, laid the blame upon the Collectors,

which

which cauſed the King to ſend out ſtrickt Commiſſions to enquire thereof. But he was moſt incenſed againſt the Archbiſhop of *Canterbury*, who had encouraged him to thoſe Wars, willing him to take no care for treaſure, becauſe he would himſelf ſee him abundantly furniſhed by the ſaid Subſidy, which failing, and the King underſtanding that the Pope ſided with the *French*, miſtruſted the Prælates in general, but eſpecially the Archbiſhop, and reprehended him ſharply for it, who preſently complained of manifold violences againſt the Liberties of the Church and *Engliſh* Nation comprehended in *Magna Charta*; and thus the Clergy incenſed the Commons againſt the King and the Commiſſioners, which he had appointed to enquire of the abuſes of the Collectors, who had enquired of divers matters in *Fyre* beyond the limits of their Commiſſions, which bred ſuch ill humours in the Lords and Commons, as when in the 15th year of his Majeſties Raign, when he had in Parliament ſhewed the neceſſity of the *French* Wars, and that the Aid granted him the year before was withheld and ill ſpent by his Officers, and therefore deſired the Parliament to conſider how Malefactors might be puniſhed, and the Law kept in equal force both to Poor and Rich, the Commons delivered up their advice in writing for a *Commiſſion*, to be directed to the Juſtices in each Shire, *d' Oyer & Terminer* theſe matters in general.

But the *King*, the Prælates and Grandees thought fit to add *Articles of the ſaid enquiry, and therefore they delivered unto the Commons certain Articles which were ordained by the ſaid Prælates and Grandees, for them to adviſe, and give their Aſſent.*

The which being viewed and examined by them, they aſſented that *good Juſtices*, and Loyal, be aſſigned to hear and determine all the things contained in the ſaid Articles, for *the profit of our Lord the King.*

The Aſſent of the Lords is many times omitted to be entred, and ſo likewiſe hath many times been that of the Commons.

In the ſame year the Commons exhibited their Petitions for the confirming of a Statute made in the 15th year of the ſaid Kings Raign, which was general *n.* 26. And in general for all Statutes, and the other ſpecial *n.* 27. for that in particular.

And

And yet in the ſame 17th year an Ordinance was entred *n.* 23. *viz. Item accordez eſt & aſſentuz*, that the Statute made at *Weſtminſter* in the *Quindena* of *Eaſter* in the year of the Raign of our Lord the King the 15th, be wholly repealed and gone, and looſe the name of a Statute, which was *without any mention either of Lords or Commons.*

In the 30th year of the Raign of the ſaid King, the Dukes, Earls, Barons, and Commons, conferring together by the Kings order touching the Exactions of the Pope in the *White-Chamber* (now called the Court of Requeſts) aſſented, *if it pleaſe the King.* Ro. Parl. 18. E. 3.

Anno Eodem in the 9, 10, 11, & 12. Chapters of Statutes made in that year upon ſeveral Ordinances entred in the Rolls of that year *n.* 27, 28, & 29. no mention is made therein either of the Lords Aſſent, or the Commons, *though both are mentioned in the Præamble of the Statutes.*

Anno 2. *H.* 4. The cruel Bill for the burning of Hereticks, beginning in the Lords Houſe, and exhibited by the Clergy, was written in *Latine*, and ſo was the long Anſwer to the ſame, and all and one in the ſame phraſe, *and no mention made of the Commons Aſſent.* Ro. Parl. 2. H. 4. n. 48.

Anno Eodem a Bill was exhibited by the Clergy into the Lords Houſe againſt a Bull from the Pope to diſcharge the Poſſeſſions of the *Ciſtertian* Monks from the payment of Tythes, which being there anſwered, was carried to the Commons by the Archbiſhop of *Canterbury* himſelf, to have their Aſſent, and told them, that the King and the Lords were attended upon with the Anſwer to the ſame, and afterwards the Commons came before the King and the Lords in Parliament, and made divers requeſts, and amongſt others ſhewed that the Archbiſhop of *Canterbury* delivered them the Petition touching the order of *Ciſtertians*, to which Anſwer the ſaid Commons agreed.

Eodem Anno the Commons did ſhew, that whereas the King had ordained a Staple at *Bruges* in *Flanders* Merchant ſtrangers did by Land or Sea bring their Wooll thither to the great profit and encreaſe of the price of Wooll coming thither; the Town of *Bruges* hath for their own profit forbidden the bringing of Wooll thither as they were wont to do to the great damage of the Merchants of *England*, and of all the Commons, whereof they do pray Remedy.

Unto which was anſwered, It is adviſed by the Prælates, Grandees and Commons of this Realm, that the Petition is reaſonable.

Ro. Parl. 25. E. 3. m. The Commons Petition againſt the Subſidy of 40 *s.* for every ſack of Wooll granted by the Merchants.

Unto which was anſwered, *for that our Lord the King for great neceſſity which yet endureth and appears greater from day to day did do it*, which being ſhewed to the Grandees, and Commons in this Parliament aſſembled on the Kings behalf, the ſaid Lords and Commons by Common Aſſent, have granted the ſaid Subſidy.

The Parliaments or great Councels were heretofore very ſhort, and diſpatched in a few days, having the matters (which were alwaies extraordinary) appointed or declared by the King to be treated of.

And there are divers Anſwers to Petitions which croſs or add to the prayers of the Commons, whereunto their Aſſent is not ſpecified, and yet the Statutes thereupon made do mention it.

Ro. Parl. 37. E. 3. m. 34. & cap. 16. For the price of Wines, *a report of a former Statute is not in the Petition, but in the Anſwer only.*

And it ſhould be remembred that although the Houſe of Commons in Parliament, have been often of late times only ſaid to have been the repreſenting of ſome part of the Commons of *England*, & thoſe that were as aforeſaid Flected and admitted into the Parliament, have in their Petitions to their Kings for Redreſs of Grievances, ſtiled themſelves no otherwiſe then your Pravrez Communs, and Leiges, yet it was never intended, or could be of all the Freeholders or people of *England*, or in the Latitude of the word repreſented, which is over extended.

§ 26.

What is meant by the word Repreſenting, or if all, or how many of the People of England *and* Wales, *are, or have been in the Elections of a part of the Commons to come to Parliament repreſented.*

FOR the Nobility, the Proceres and Magnates, and the Biſhops, and many Abbots and Pryors were always Summoned apart to our Parliaments, and never repre-

repreſented by the Commons, the conſent of the Univerſality of the People being in and before the 49th year of the Reign of King *Henry* the 3d included in the King, and the Lords Spiritual and Temporal, the Tenants and Knights Fees of the Lords Temporal and Spiritual, not a few were not repreſented, when with thoſe and their dependancies they ſo over-powered King *H.* 3. in a Parliament at *Oxford*, as to inforce him to yield unto thoſe Proviſions, which afterwards proved to be the fatal Incentives of an enſuing bloody War, and the Seminary of many Commotions and Conteſts betwixt ſome of our Succeeding Kings and their Subjects in their after Generations, thoſe only excepted being Tenants Paravail, who held their Lands ſubordinately of the Tenants that were mean, to thoſe that held their Lands of the Lords Spiritual and Temporal, the *Majores Barones*, holding of the King *in Capite*, with multitudes almoſt innumerable of Copy-holders, Leaſe-holders, Tenants at Will, or Sufferance, Villani or Bordarii, *le menu peuple et de buſſe condition*, were exempted by Order of Parliament, as repreſented by them and no other, and always uſed to be ſo, the almoſt numberleſs Herd of Monks, Fryers and Religious Perſons, and their Revenues, Servants, Tenants and Dependants, were not, nor could be repreſented, but freed by the Kings Orders in Parliament, from payment of the Commoners Wages that came to Parliament by two ſeveral neceſſary ſorts of Priviledges and Immunities, inſtead of many more which they claimed, the Religious and Monaſtick People of the Nation, with their very large Poſſeſſions and Revenues, before the diſſolution of them in the Reign of King *Henry* the 8th. and King *Edward* the 6th. being rationally to be accounted little leſs than a full 4th. part of the Lands of the Kingdom, the Secular Clergy (always giving Subſidies apart by themſelves) being almoſt 10000, were repreſented by the Biſhops or Convocation of the Clergy, the Tenants in Antient *demeſne*, or of the great number of the Tenants of the Kings *Annaent demeſne* proper and largely extended Royal Revenue that ſhould be, which before they were Granted or Aliened away by our Kings, like Indulgent Common Parents to their almoſt every days craving Subjects and People, or in Rewarding, and Incouraging publick and great Services,

Ro. Parl. 41. E. 3. & 51. E. 3. m. 5. & 1. R. 2.

Pryn fourth part of Parliament Writs, 508. 510. 512. 513. *ibid.* 329, 330, 490, 491 Ro. Parl. 1 R. 2.

vices, done or to be done for the Common-wealth or Publick good, which were very large and diffuſive through all the parts of the Nation, and the Clerks of the Chancery Beneficiate, as moſt of them Antiently were, and the Judges, Kings Council and Officers attending the Honourable Houſe of Peers in the like condition, and ſhould be exempted, although by length of Time, Cuſtom, Indulgence or Permiſſion, they have been ſince the Original of the Houſe of Commons, in the 49th. year of the Raign of King *Henry* the 3d. (which was then no more than our *Embrio*, and from thence diſcontinued until the 22d. year of the Raign of King *Edward* the firſt) charged and made contributary to publick Aids and Neceſſities, and the largely Priviledged County Palatine of *Lancaſter*, having heretofore comprehended in it the three great Earldoms of *Leiceſter*, *Derby* and *Lincoln*, with their largely extended Revenues, was not at the firſt repreſented, but did forbear the ſending of Members, the remainder whereof is now a great part of the Kings Revenue, the whole County Palatine of *Cheſter* with *Wales* and its Provinces, had none until the Raign of King *Henry* the 8th, nor the County Palatine of *Durham*, and the Burrough of *Newark* upon *Trent*, until ſome few years ago: Arch-biſhops, Biſhops, Abbots, Pryors, Religious Men and Women, and all that have hundreds of their own (as very many have by Grant from the Crown) are by the Statute of 42 *H.* 3. exempted from coming to the Sheriffs Torn or County Court, and ſo not intended to be Electors or Elected.

Reg..... of Writs, and *Pryns* fourth part of Parliament Writs, 431, 432.

52 H. 3. c. 10.

The Kings very large ſhould be *Demeſne* Lands and Crown Revenue, and that of the Lords Spiritual and Temporal, and the many other before mentioned exempted.

And the Records of the Houſe of Peers in Parliament, have often told us, that many times when the Commons gave Subſidies, they did it by the Aſſent of the Lords Spitual and Temporal.

Conſiderations touching Laws poſitive and of neceſſity.

And as a very Learned Divine of the Church of *England*, (there being many *Pſeudo-Proteſtant Divines* that are not of it) hath well remarked there is no Subject of the Kingdom of *England*, repreſented in Parliament by the Commons thereof, but as ſubordinate to the King, and to join with him, and the Lords in their Aſ-

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Aſſent and Approbation (not againſt him or either of them) in our Kings and Soveraign Princes making of Laws for the good of the Kingdom.

For *Repræſentare*, is no more than *locum implore autoritate vel vicaria poteſtate τοποϑηρησης ita iotis, eſt exhibere vi quâdam juris præſentiam ejus qui revera non eſt* ; *Budæus definit eſſe repræſentationem per figuram facere, & imaginario viſu rem ipſam repræſentare* ; *locum implere, loco ſiſtere, lovo præſentis ſiſtere, & repræſentatio quædam imaginaria.* And being but Commiſſioners, ſpecial Attorneys, or Procurators of ſome part of the Lay-Commonalty, and Freeholders, not of the Copy-holders, Leaſe-holders, Villains or Bondmen, Servants or Apprentices, could not by their Indentures, Letters of Attorney, or Procurations with any reaſon, truth, underſtanding, or propriety of ſpeech, be believed to repreſent for them, that never delegated or authoriſed them, or to Act beyond the purpoſe or deſign of thoſe that Elected, ſent or imployed them, nor can make it to be any thing more than an *ænigma*, or Riddle with ſome hidden and inveloped ſenſe or meaning, not to be comprehended in the genuine, obvious or proper meaning, ſenſe or conſtruction of the word *Repræſent*, for who can without a great weakneſs, failing or Error in his Judgment, think that they could by any tentering or ſtraining of the word, make all the ſeveral kinds of people, that ſent them in obedience to the direction of their Kings Writs or Orders, to impower them whilſt they ſate in the Houſe of Commons in Parliament, to Sentence, Condemn, Fine, Arreſt, Impriſon, Baniſh, or Sequeſter any of thoſe that they pretended to repreſent, when the Prædeceſſors of thoſe that would be Maſters of ſuch a Latitude, did in Parliament, in the 42d year of the Raign of King *Edward* the third, when a Tax or Aid was propoſed for the King, (being the firſt, and only end, for which they were elected and ſent,) make it their requeſt to the King, to give them leave to go home to their ſeveral Countries and places, to adviſe before hand with thoſe that ſent them ; Otherwiſe the Pledges, or Sureties which every Member of the Houſe of Commons being to give their County and place whom they would repreſent as their Procurators or Attorneys, are to be well heeded, and cautiouſly taken for pledges or

Martinius.
Budæus.

ſecurity, well watched in their doings, and not left to trick and purchaſe to themſelves, by unlawful Encroachments, an Arbitrary and Illegal Soveraignty, which the Laws of the Land never allowed them,and their Maſters the Counties and places that ſent them could neither give or intend,for *nil dat qui non habet*,as being never able to give them complextly or ſingly their diverſities of Powers or Intereſts preſent or to come, other than ſuch as the intent and purport of their Writs of Election & Commiſſions allowed, when the Devil with a pair of Spectacles, cannot find in their Indentures or Procurations, any Commiſſion either by the King, or thoſe that Elected them, other than to do and perform ſuch things as the King, by the advice of the Lords *S*piritual and Temporal in Parliament, ſhould ordain; but not to make War againſt their King, and Murder him, Plunder, and deſtroy their fellow Subjects and Maſters, that elected, and ſent them for better purpoſes, neither can they, or any of their Record-maſſacring Champions,ever be able to prove that the Lords *S*piritual or Temporal, did, or could transfer unto them their power repreſentative in Parliament,which without the Authority of the King that gave it, is not transferrable.

And when there were but 170 Counties, Cities, and Towns, that ſent Knights, Citizens, and Burgeſſes, to Parliament, in the latter end of the Raign of King *Edward* the Firſt, were but almoſt one Part of three that could be truly eſteemed Repreſenters of many of the Commons (too many having been ſince only added by corruption of Sheriffs and otherwiſe) it could never be intended, or at all poſſible, or ſo much as probable, as all could be Freeholders or otherwiſe, within the true meaning and intention of the word Repreſentation, or repreſent applied to the Houſe of Commons, or any particular member thereof, was until our late Factious, and Seditious Times, never found in any of our Parliament Rolls, Records or Memorials, which hath lately been made to be very large, and drawn into a factious and ſeditious extent and interpretation.

For the Parliament being only the Kings great Councel (not of the people his Subjects) upon ſpecial emergent occaſions concerning the weal publick in the defence of the Kingdom and Church, all offences committed

mitted againſt the Members of either of the Houſes ſitting the Parliament, or in their coming or returning, are by Law to be proſecuted, and puniſhed in the behalf of the King, and in his name, and by his only Regal Authority, (and the Priſon of the Tower of *London*, is the Kings by a long poſſeſſion, but none of the peoples) as it was adjudged in the Raign of *Edward* the 1ſt in the caſe of the priviledge of the Earl of *Cornwal*, and long after that, *viz.* In the latter end of the Raign of King *Henry* the 8th, in the caſe of the Lord *Cromwel* and *Tailbois*, and in the extraordinary forcible Riot and Treſpaſs committed in the 12th year of the Raign of K. *Richard* 2. upon the Goods, Lands and Servants of one of the Knights of the Shire of *Cumberland* ſitting the Parliament, whereupon that King upon his complaint directed a Writ or Commiſſion to enquire, and certify the Fact, directing the Sheriff of *Weſtmorland*, by a Jury of his County, to attend them therein, and thoſe that were found offenders, to arreſt and bring *coram nobis & concilio noſtro* (not the Houſe of Commons in Parliament) *in Quindena ſancti Michaelis*, with a *nos talia ſi fuerint relinquere nolentes impunita*, upon which Mr. *Pryn* obſerveth, that the King upon that complaint did not preſently ſend for the Offenders in Cuſtody by a *Serjeant at Arms* (as the Commons of late times have done;) And did the more, as he ſaith, urge that Record and Precedent to rectify the late irregularities, of ſending for perſons in Cuſtody upon every motion and ſuggeſtion of a pretended breach of priviledge, to their extraordinary vexations and expence, before any legal proof or conviction of their guilt *againſt the great Charter, and all ancient precedents and proceedings in Parliament, further evidenced by him, to appertain only to the King, by the Commons own Petitions from time to time in ſeveral Parliaments, in the Raigns of* Henry *the* 4*th*, Henry *the* 6th, *and* Edward *the* 4th, in the caſes of *Chodder, Atwil, Dome, Colyn*, &c. *And that it was expreſly reſolved and declared to belong only to the King, by his Writs of Priviledge*, ſuperſedeas & habeas corpora *iſſued out of the Court of Chancery*, to deliver members of Parliament, or their Servants impriſoned, or taken in execution againſt the Priviledge of Parliament, for in the great Debates and Arguments in the Houſe of Commons in the caſe of *Fitz-Herbert* in the 35th year of the Raign of *Queen*

Ro. Pat. 12. R. 2. *parte* 2. *in dorſo.* *Pryns* Animadverſions upon *Cokes* 4 Inſtitutes, 332, 333, 643, 647, 1199, 1200.

Queen Elizabeth, when Sir *Edward Coke* was Speaker, it was at the laſt concluded that it was meet that the whole matter ſhould be brought before them by an *Habeas corpus cum cauſa* iſſued out of the *Chancery*, and there to be returned, ſince no Writ of *Habeas Corpus*, nor yet of priviledge could be returned into the Houſe of *Commons*, but only into the Chancery or Lords Houſe, as Writs of *Error* were, whereupon the Speaker attending the Lord Keeper of the Great Seal of *England*, preſſed for a ſpecial *Habeas Corpus*, with a clauſe to be inſerted therein, that *Fitz-Herbert exiſtens de Parliamento captus fuit*, &c. with a recital of the cauſe of priviledge, who upon conference with the Judges, would not Aſſent thereunto, and reſolving not to depart from the uſual form, iſſued out the Writ to the Sheriff returnable in *Chancery*, who bringing the Body of the Priſoner, and certifying the cauſe of his impriſonment, the Lord Keeper ſent the Sheriffs return of the *Habeas corpus* to the Commons Houſe, the Chancery men who brought it, being ordered to read it, which they did, with the Writ thereunto annexed, whereupon Mr. *Dalton* argued, that the Houſe had no power to deliver him, he being not arreſted *ſedente Parliamento*, but before it ſate, and that in a point of Law whether in this caſe he ought to be priviledged, *the Commons Houſe ought not to paſs any Vote therein, but ought to adviſe with, and receive inſtructions* from the *Judges of the Realm*, whether in this *caſe by the Law they could grant Priviledge*, which being ſeconded by Sir *Francis Bacon*, and thirded by Sir *Edward Coke*, it was ordered that *Fitz-Herbert ſhould appear and be heard by his Councel the next morning, and that the advice of the Judges ſhould be had therein, which being had, the Judgment of the Houſe was, that he was not to have Priviledge, for three cauſes, Firſt, becauſe he was in Execution taken the ſame day of his Election; Secondly becauſe it was at the Queens ſuit, which was the grand Reaſon; Thirdly becauſe he was taken neither ſedente Parliamento, nec eundo, nec redeundo*, and Mr. *Pryn* likewiſe *humbly conceived, that in caſe of any Member of Parliament Arreſted, their only legal Means and Remedy was, and is by a Writ of priviledge out of the Chancery.*

In the Journal of the Houſe of Commons in Parliament, *Anno 6. E. 6.* There is an Order entred that if

any

any Member require priviledge for him or his Servant, he ſhall upon declaration have a Warrant, ſigned by the Speaker to obtain a Writ of Priviledge, after which as on the ſame day follows a ſpecial *Entry* of a Vote of the Houſe of Commons in theſe words, *For that* William Ward *Burgeſs* of *Lancaſter had obtained a Writ of Priviledge out of the Chancery, without a Warrant from the Houſe, it is committed to Mr.* Maſon, *Mr.* Hare, *and Serjeant* Morgan, *to examine, and certify*, whence it is apparent, ſaith Mr. *Pryn*, (their old friend) that the Houſe of Commons in that age did not uſe to enlarge their Arreſted and Impriſoned Members, by their *Serjeant* at Mace, and own Orders, but only by ſpecial Writs of Priviledge iſſued out of the Chancery under the great Seal of *England*, according to the practice and uſage of former ages, that the Houſe was firſt to be informed of the Arreſts, and thereupon to order their Speaker not to grant a Warrant directed to the Lord Chancellor, (not as their Subordinate or Coordinate Soveraigns) to Iſſue a Writ of Priviledge to them, if he ſaw cauſe, and in caſe of *Servants* of a Member of an Houſe of Commons in Parliament Arreſted or Impriſoned, the Maſter was upon his corporal Oath, to prove that he was his real mœnial Servant, who came along with, and attended on him before he could be releaſed by a *Superſedeas*, and Writ of Priviledge out of the Chancery (being the Court of the King, not of the Houſe of Commons in Parliament,) one Member of the Houſe of Commons in Parliament aſſaulting another, is a breach of Priviledge, and of the Peace, for which he may be impriſoned until he find Sureties of the Peace; and in the caſe of *George Ferrers*, a Member of the Houſe of Commons in Parliament, reported by Mr. *Crompton*, the Houſe it ſelf appealed to King *Henry* the 8th for his deliverance: And although they do repreſent ſome part of the Commonalty, yet it is within limits and boundaries ſo little to be tranſgreſſed as our Laws, conſtant Cuſtoms and Uſage of Parliament have *una voce* conſtantly affirmed, that there can be no allowance of Priviledge of Parliament in caſes of Treaſon, Felony, or Treſpaſs.

Cromptons Juriſdiction of Parliament.

And being ſo ſubordinate, and tyed up as to themſelves by our Laws, antient Cuſtoms and Uſages, and their own Oaths of Allegiance and Supremacy, ought

not ſurely to think that the power of repreſenting for ſome, can be by a limited Commiſſion or Procuratorſhip enlarged to all that an Authority to repreſent in the doing of one ſingle Act, or conſenting thereunto can give them a liberty to do what they pleaſe in every other matter, and even in contraries againſt duties enjoyned by their Oaths of Allegiance and Supremacy, and that when antiently, and of long continuance, (now altogether diſuſed) they were to give Sureties or Pledges to their Counties or places to perform their truſts, it was not to impriſon, ſequeſter, ſtarve or ruine, or make Rebels & Traitors thoſe that gave them their Letters of Attorney, Subſtitutions, or Procurations, and cannot but underſtand that an Attorney or Tranſgreſſor wilfully damnifying thoſe that commiſſionated them, are by common Law, Reaſon, and Equity *damna reſarciri*, and make amends, that *jure gentium* Leagues even made by Embaſſadours in the behalf of their Princes that ſent them, contrary to their Mandates or Inſtructions have not ſeldom been avoided or altered, and that it was adjudged in the caſe of *Mendoza* the *Spaniſh* Embaſſadour plotting Treaſon here againſt Queen *Elizabeth*, that he was not to be allowed the priviledge of an Embaſſador, for that *Illiciti non eſt mandatum*. For did they repreſent thoſe that within their bounds they did truly and properly repreſent, they could not Arrogate a power without the King, to unelect or remove thoſe that came thither elected by their own Counties, Cities, and Burroughs, not by any power or Authority of their own, but by virtue of their Kings Writs, nor order the Clerk of the Crown (the Kings Officer, and none of theirs) to raze their names out of the Record, a matter which our Laws and Parliaments themſelves have ordained, to be without exception highly Criminal, and it may be an everlaſting problem how the Members choſen by one County or City ſhould be put out by another, that were ſtrangers or Forreign unto their Election, and were not commiſſionated to expel or juſtle out one another, (for ſo might *Cornwal*, *Wiltſhire*, and the County of *Suſſex*, who do claim a multiplicity of Members in the Houſe of Commons in Parliament be prædominant, and out-do all the reſt in benefiting themſelves, or hindring whom they liſt) or by what Authority they do now of late (for before,

Marſillaer de Legatis.

Camdens Annals of Queen Elizabeth.

or

or in the Raigns of King *Henry* the 8th *Edward 6.* Queen *Mary*, Queen *Elizabeth*, King *James*, King *Charles* the Martyr, and all their Royal Progenitors and Predeceſſors ever ſince this Kingdom was and hath been, and ſhould be a Monarchy of above One Thouſand years, it hath been never heard of, that ſtrangers whom they would be thought to repreſent, and ſometimes their own Members, or thoſe they do not repreſent, muſt, when they receive their ſentence or cenſure, as it is ſtiled, from them, who have no judicative power, but were only Elected *ad faciendum & conſentiendum* unto thoſe things which ſhould be ordained by the King, by or upon the advice of the Lords Spiritual and Temporal in Parliament, conſtrain to receive their ſentence of expulſion, if they be Members, or puniſhment, if otherwiſe, upon their knees, unleſs they will claim to be a Soveraignty, which their Oaths of Allegiance and Supremacy, all our Laws, Records and Journals of Parliament, and our Annals and Hiſtories, and the Uſage and Cuſtoms of Neighbour Nations, Kingdoms and Republiques, have hitherto contradicted; or if it ſhall be ſaid, that it is in regard that the King is ſuppoſed to be virtually there, and always believed to be preſent, our Laws, Records, Annals, and Reaſon and Truth, will make haſt to confute them, that it would be *abſurdiſſimum ab omni ratione remotum, & nullo Exemplo in Anglia uſitatum*, for that the King is, we hope, no Commoner, or Member of the Houſe of Commons in Parliament who come thither as his Subjects, and ſworn to obey him and his Succeſſors, under their Oaths of Allegiance and Supremacy, was not Elected at all, or to be there for his Place, and his Throne and Chair of State is in his Houſe of Peers in Parliament, to whom he ſends, which he uſually doth in the time of Parliament, to come to receive his Commands and Directions, and cannot ſurely at one and the ſame time be ſuppoſed to be in two places, or to ſend for himſelf to come out of the Houſe of Commons to himſelf into the Houſe of Peers to hear what himſelf would ſay unto himſelf, for when in other caſes it hath been ſaid that the King is by our Laws intended to be vertually or perſonally preſent in his Courts of Juſtice, it it is not *perſonaliter*, but *authoritative*, where Sentences or Judgments are not received upon the knees, neither in the

the Eccleſiaſtical Courts where the Biſhops in the name of God and as the Church do only give their ſentences, and make their decrees without the Majeſty or Ceremony of kneeling unto them to be performed by thoſe that are concerned to obey the Condemnation, & it may be a Quære harder to unriddle than many of thoſe of *Sphinx*, how it can conſiſt with the reaſon of ſuch a repræſentation, that they whom they would ſeem to repreſent, ſhould be Petitioners unto themſelves, and that if any of the County or place repreſented ſhall commit any offence againſt any ſingle Member of the Houſe of Commons repreſenting for another County or place, as for breach of priviledge, or for words, *&c.* The perſons of the other Province or place muſt be puniſhed, and come upon their knees, and not they that repreſented them & a Warrant ſent by their Speaker, for the Kings Writ to the County, City or place, to Elect another in that Houſe, and might have done much better to have hindred it.

Or if any Freeholder, Gentleman or Clown that Elected them were not before accuſtomed to be kneeled unto as by an adoration, how theſe enlightened overlofty Members can compel men to adore and kneel unto them under a colour of Repreſentation, when thoſe that they would have believe that their new-found Repreſentation, with an adoration deſigned to be entailed upon them, would have been aſhamed to have it to be done unto them, and durſt never claim or own it in their own Counties or places that Elected them, and might be abundantly ſatisfied, that neither the Kings Writs, or their Election, Indentures, Letters of Attorney, Procurations, or any Præſcription, or ſuppoſed Priviledge of Parliament, could entitle them unto ſuch a kind of Majeſty, or how they that are no Judicature or Court of Record, and have no power to give, or adminiſter an Oath to Witneſſes, can eſcape the blame or cenſure of *Magna Charta*, and all the Laws, Right, Reaſon, and Rules of Juſtice and Equity to be Parties and Judges in their own Caſes, or enforce their fellow Subjects, and not ſeldom of better Births and Extractions to receive upon their knees with adorations their unjuſt dooms and ſentences, when better tryed Criminals in the Court of Kings Bench, where the King as a

Judge

Judge is ſuppoſed to ſit himſelf, do not likewiſe in his other Courts receive their Judgements upon their knees, but only when they receive the Kings pardon in rendring their thanks unto him.

But ſhould rather remember, that the Angel in the Apocalipſe would not ſuffer St. *John* to kneel unto him, and that the often ſawcy *Plebs* or *Vulgus* of *Rome* could be content with the Exorbitant power of their *Tribuni Plebes* in their Interceſſions for Laws, without any the adoration of kneeling, nor are there to be found any Records or Preſidents in *England*, or any ſcrap of Law or Reaſon that any of our Kings in their licenſing any of the Speakers of the Houſe of Commons, ſhould give them any Power or Priviledge to Eject any of their fellow Members, and make them on their knees receive uncivil and ungentleman-like words, ſuch as Mr. *Williams* a late Speaker of the Houſe of Commons in Parliament was pleaſed to ſay unto Sir *Robert Peyton* Knight, being commanded and enforced to receive his Lawleſs Ejectment upon his knees in theſe words, *Go thou worſt of men, the Houſe hath ſpewed the out*, or after ſuch an Inſolence to require the Kings Clerk of the Crown to make out a Warrant in the Kings name to Elect another Member in his place.

And our *England*, nor any other civilized part of the World, have yet found ſuch a Parcel of Repreſentatives or Deputies that can think themſelves ſo to be entituled (as the Author of the Character of a Popiſh Succeſſor in this Kingdom of *England* hath been pleaſed to grant unto them) to that which they would willingly ſtile their own Royal Inheritance and Sacred Succeſſion of Power, when they are not as Embaſſadors, Repræſenting Princes, ſent unto, or Treating with Princes, but as Procurators or Attorneys employed by thoſe that are, nor ever were more than Subjects their *ne plus ultra*.

Or by what Art or refined Chymiſtry was ſuch a Majeſty entailed or infuſed into them when *Kelſy* a Body or Bodice-maker and *Barebone* a Fanatick Letherſeller were Members, or what or whoſe Charters or Letters Patents, have they to entitle them thereunto, when Sir *Edward Coke* a learned Lawyer, gives them no greater Title than that of a grand Enqueſt, and Mr. *William Pryn*, that adventured Body and Soul for them, and with

great miſtakings joyning them in a Supremacy conjoynt with the Houſe of Peers in Parliament, abundantly found fault with them in taking too much upon them in other matters, when thoſe deſigns of Majeſty were not arrived or let down from Heaven, as the figment of the *Anciliæ* at *Rome* was believed to be, or how could the Commons in Parliament charge (as they did ſo unjuſtly and wickedly) King *Charles* the firſt for coming unarmed without any Guard to ſeize *Pym*, *Hambden*, *Haſelrig*, and the reſt of the five Members, and *Kimbolton*, then, and long after, guilty of High Treaſon, if he were then in the Houſe of Commons in his Politick or perſonal Capacity, a diſtinction which the Maſter of Hypocriſy and Lyes had taught them when in ſeveral of his Battels in the defence of himſelf and his Loyal Subjects, *Weemes* a prefidious *Scot* and others Levelled their Cannons at him with Perſpective Glaſſes to be ſure to hit him, a Method which *David* had not learned when he found *Saul* ſleeping, and was afraid to touch or kill the Lords Anointed, and never left perſecuting him until they had cut off his Head, and murdered him in both his Capacities, which did not ſerve for a Plea in the caſe of *Cook*, *Hugh Peters*, and other his juſtly condemned Murderers, who had not then the Impudence to plead or rely upon ſuch a parcel of deviliſm, when they might know that the Politick and perſonal capacity of a King, or any ſubordinate Magiſtrate were ſo conjoint and inſeparable, as *in articulo mortis*, that part of Kingſhip or Magiſtracy could not be ſevered from the natural, unleſs it were in ſuch an apparent and publick manner as in the ſelf-depoſing and Renunciation of our King *Richard the 2d* of *Charles the 5th* Emperor of *Germany*, retiring into a *Monaſtery*, or as ſome of the ancient Kings and Princes of *France* were when they were cheated of their Kingly Power, and forced to be ſhaven as Monks, and put into a *Monaſtery*.

And that notwithſtanding the Houſe of Commons new-faſhioned way of their own framing, ſince the Raign of *Queen Elizabeth*, of making their own Committee to find out and determine ſuch Priviledges as they would claim, and have, they might have diſcovered that in the *Trinity* H. 4. Court of Kings Bench in the caſe of *Richard Chedder* a Servant to a Member of the Houſe of Commons in Parliament

Parliament being in his coming to Parliament beaten and wounded by one *John Savage*, the Record declareth, that, *videtur cur quod non eſt neceſſe quod Inquiratur per patriam quæ dampna prædictus Richardus Chedder qui venit ad Parliamentum in Comitiva*, &c. *Et verberatus & vulneratus fuit per Johannem Savage ſuſtinuit occaſione verberationis, ſet magis cadit in diſcretionem Juſtic Ideo per diſcretionem cur conſideratum eſt quod dictus Richardus recuperet. dampna ſua ad centum marc. & ſimiliter centum marc.* And though he was a Servant to a Member of the Houſe of Commons in Parliament, was committed to the Marſhal, *quouſque finem faciat cum Domino Rege per minatoriis datis Juratoribus appunctuat. ad inquirend.*

And if there had been any Priviledge due to the Members of the Houſe of Commons in Parliament beſides, and other than that which their Speakers do at their admittance by our Kings and Princes claim in their behalf, being no more than freedom of Acceſs to their Perſons, and from arreſt of their Perſons and mœnial Servants ever ſince, or in the 22 year of the Raign of King *Edward* the firſt; for in the 49th year of the Raign of King *Henry* the third, when that King was a Priſoner to *Simon Montfort*, and his Partner Rebels, thoſe few that were ſent as Members of that, not to be called a Parliament, claimed not any Priviledges from the beginning of our verily long laſting Monarchy, until that their diſtempered and unhappy framed Writ for the Election of *Knights, Citizens and Burgeſſes* to come to Parliament in 49 *H.* 3. nor can it be made appear that any of the Commons were before ever Elected to come as Members of Parliament (the Writs *ex gratia Regis* allowed for the Levying of their Wages, being no Priviledge given by the King, but rather the Gift and Wages of the Counties and Places that Elected them.)

And the Priviledges of the Lords Spiritual and Temporal, beſides thoſe of the Earls, and higher Degrees of the Nobility, whoſe Patents and Charters about the Raign of King *Richard* the 2d gave them their Priviledges of having *vocem locum, & ſedem in Parliamento, & concilio generali Regis*, and before had their Titles of Earls by a Charter of the third penny or part of the Fines and Amerciaments of the County of *Oxford*, as the Creation of *Alberick de vere Earl of Oxford* by King *Henry* the 2d hath

Selden tit. honor.

hath demonſtrated, and ſome Authentick Hiſtorians have told us, that King *John* made two Earls, *per Inveſtituram cincturæ gladii*, who waited upon him immediately after as he ſate at dinner *gladiis cincti*, and by reaſon of the Grandeur and Honour of their Eſtates and Priviledge to adviſe their King, needed no protection from Arreſts, and their Ladies and Dowagers do enjoy the like Priviledges, and when they ſhould in extraordinary affairs be ſummoned to Parliament to be adviſed withal by our Kings, whereunto when they were travelling through any of his Forreſts, they might kill a Deer, ſo as they, or any of them gave ſome of the Keepers notice thereof by blowing of an Horn and leaving a piece thereof hanging upon a Tree. A Baron may ſpeak twice to a Bill in Parliament in one day when a Member of the Houſe of Commons can but once, they neither need or chooſe any Speaker, for the Chancellor or the Keeper of the Kings great Seal of *England* is the only Speaker of that Houſe where the King doth not do it himſelf, or commiſſionates ſome other to officiate in the Lord Chancellor or Lord Keepers place, or time of ſickneſs.

Cromptons Juriſdiction of Courts, *tit. Parliament.*

Cokes twelve Reports in the Counteſs of *Shrewsbury's* Caſe. Ob Counteſs of *Ri* in his 6th Report.

Every Baron or other Lord of Parliament in any Action where the Defendant pleadeth he is no Baron, it ſhall not be tryed at the Common Law, or by Jury, nor by Witneſſes, but by Record, their Bodies ſhall not be arreſted, and neither *Capias* or *Exigent* ſhall be awarded againſt them, and their bodies are not ſubject to torture in *cauſa læſæ Majeſtatis*.

Are not to be ſworn in Aſſiſes, Juries or Inqueſts, if any Servant of the King in Checque Roll compaſs the Death of a Baron, or any of the Kings Privy Councel, it is Felony; in any Action againſt a Baron in the Court of *Common Pleas*, or any of the Courts of Juſtice, two Knights are to be impannelled of the Jury, he ſhall have a day of grace, ſhall not be tryed in caſes of Treaſon or Felony, or miſpriſion of Treaſon, but by their Peers, and ſuch as are of the Nobility who are not ſworn, but give their verdict only upon their honour, *& ſuper fidem & ligeantiam domino Regi debitam*, and by an Act of Parliament made by Queen *Elizabeth* are exempt from the taking of the Oath of Supremacy, which the Members of the Houſe of Commons are ordained to take before their admittance, the Writs of Summons to a Parliament are directed

directed only to themſelves who are not Elected as the Members of the Houſe of Commons who are but as the Attorneys and Procurators for thoſe that ſent them *ad faciendum & conſentiendum*, to do and obey what the Lords ſhall ordain, who *ſub fide & ligeancia Domino Regi debita*, do repreſent only for themſelves, and the cauſe ſaith Sir *Edward Coke* of the Kings giving the Nobility ſo many great Priviledges, is becauſe all Honour and Nobility, is derived from the King who is the true fountain of Honour, and Honours the Nobility alſo two was, as, 1. *Ad conſulendum*, and (anciently) gives them Robes. 2dly. A Sword *Ad defendendum Regem & Regnum*, and the Oath of Allegiance is, and ought to be imprinted in the heart of every Subject, *ſcil Ego verus & fidelis ero, & veritatem præſtabo Domino Regi de vita & membro & de terreno honore, & vivendum & moriendum contra omnes gentes*, &c. *Et ſi cognoſcam aut audiam de aliquo damno aut malo quod domino Regi evenire poterit revelabo*, &c. And their Wives and Dowagers enjoy the ſame Priviledges in the time of Parliament, and without, and their Sons and Daughters a præcedency, which thoſe of the Houſe of Commons have not, the Lords can in caſe of Abſence by the Kings Licenſe make their proxy, but the Members of the Houſe of Commons cannot; the Lords at any conference with the Members of the Houſe of Commons do ſit covered, but the Commons do all the while ſtand uncovered; the Lords have a certain number of Chaplains in time of Parliament, and with a Priviledge of enjoying more than one Benefice, but the Members of the Houſe of Commons none; the Lords in the caſe of breach of Priviledge(by arreſting any of their Mœnial Servants in the time of Parliament, do by their own order puniſh the offenders, which the Houſe of Commons ſhould not without the aſſiſtance of the King by his Writ out of his Court of Chancery; the Lords and ſome others appointed by the King are in every Parliament Tryers of the Petitions of the Commons, but they are not of any Petitions to the King and Houſe of Lords, the Commons not being to be allowed, petitioning to themſelves, and our Kings often refuſing to grant what was required, where any had offended and broken the Priviledge of the Houſe of Lords, or committed any Treaſon or miſdemeanor againſt the King

and many times upon a charge of the Houſe of Commons they were to receive their ſentence at the Bar of the Houſe of Lords kneeling, but never in the Houſe of Commons until the late new-faſhion'd Rebellion, and fancied Soveraignty of the people, which God never gave them, and the Devil cannot allow them after a Parliament ended, and leave given by the King to depart, the Commons do Petition the King for his Writs to the Counties and places that ſent them to pay them their wages, which the Houſe of Peers never did.

And a ſtrange repreſentation, partial, much diſordered and disjointed it was when 45 Members in the time of a Rebellious and Parliamentary confuſion, ejected 400 of their better conditioned fellow Members, and have ſince taken upon them, when their Soveraign hath with ſome reſtrictions given them proper and neceſſary liberty of Speech in the diſcuſſing of matters pertinent and becoming the reaſon and buſineſs, for which they were called to deny innocent liberty to their Partners choſen and intruſted by other parts of the Nation, not at all depending upon them, but Elected, ſent and intruſted by their fellow Subjects, Arraign and Murder their Pious King at the Suit of the People when they neither could, or did give them any Order or Authority to do, vote, and make a War againſt him, his Loyal, and their fellow Subjects, to the Ruine and Deſtruction of above two hundred thouſand, and puniſh others as their Votes ſhall carry it, receive upon their knees their Sentence ſometimes to be impriſoned in the Tower of *London*, ſent thither only by their Speakers Warrant, or expelled the Houſe, with a Warrant for the Kings Writ, to Elect another, and no man can tell whence that power was, is, or could be derived unto them either by Warrant of the Laws of God, Nature, or Nations, or the Laws, and reaſonable Cuſtoms of *England*, or of any Forreign Senates or Councels, to diſprove, approve, or remove or puniſh one another, or how they can underprop that their beloved Authority, when many times the Major part of the Members were abſent in perſon, and many of thoſe that are preſent, and have no mind to concur, were either wanting in their courage, or that for which they were Elected, and what with thoſe that were abſent and tarryed in their Coun-

tries,

tries, or were in *London* and come late to the Houſe, or ſtayed there but a very ſhort time, there is ſeldom the one half, or ſo many of them as could make a Major part of them underſtand to give an energy or certain eſtabliſhment to what within the limits and bounds of their conſtitution ſhould be agreed unto, or by what Rule of Law or rectified reaſon any that are repreſented ſhould be condemned by thoſe that repreſent them not for that, but for better other purpoſes.

Or how they can be ſaid to repreſent the People that ſent them in the matter of Parliament Priviledges, when they that they repreſent are not to partake of their Freedom from Arreſts, Troubles of Suits, *&c.* for themſelves and Mœnial Servants, or how do they repreſent in their properties, when there is no ſuch thing in their Writs, Commiſſions or Procurations, and they did in the 13th year of the Raign of King *Edward* the 3d, ask leave of the King to go home to their ſeveral Countries and Places, to confer with thoſe that ſent them, concerning a Tax or Subſidy required, or how they can be ſaid to repreſent for all that ſent them, and call themſelves one of the three Eſtates of the Kingdom, if any can tell how to believe them, when they whom they would repreſent are not, nor ever were Eſtates, *&c.* If the People had a Soveraignty Veſted and Inhærent in them, ſhould be no more when they are in Parliament but as a Grand Enqueſt, as Sir *Edward Coke* ſaith, (to ſome only purpoſes) but to many, and the moſt of their buſineſs, but as Petitioners for Redreſs of Grievances, or if they could by any right or conſtruction be underſtood to be Soveraigns, when they can do nothing there, or have admittance until they ſhall have taken the Oaths of Allegiance and Supremacy to their King and Soveraign, or can demonſtrate how many kinds of Soveraigns there be, and which is on Earth the Single and Sole Soveraign under God, or when or how came all the People they would repreſent to be Soveraigns, or how can they be Soveraigns after they have taken their Oaths of Allegiance and Supremacy unto their King and Prince, and his Heirs and Succeſſors, their only very not Fictitious Soveraign, and how it happeneth that they have in many of their Petitions in Parliament, ſtiled themſelves your Pourez Leiges the Commons of *England*, if they at that time

Ro. Parl. 13. E. 3.

Cooks fourth part of Inſtitutes, *tit. Parl.*

time had any part of Soveraignty in them, and were not all Poor neither, or when ſometimes in the Raign of King *H.* 6. or in his Abſence or Infancy their Petitions were directed unto them by the Title of *Sages*, *Senators*, *& tres* Honourable *Seignieurs*, or how they could as repreſentatives of the Commons be Petitioned unto, by any of the Commons; For that would have been as abſurd to have been Petitioners to themſelves, or to have been believed to be all Wiſe or Honourable, or that all they repreſented could by any kind of Grammar, Reaſon or Senſe be underſtood to have been ſent as Soveraigns, or were ever ſo underſtood to be by thoſe that Elected or ſent them, they ſhould, when they were to go home to thoſe that delegated them, were not to depart without the Kings Licenſe, and then did not neglect to Petition the King for Writs, to be paid their Wages by the Countries or Places that employed them, and if any Sheriff had levied their Wages with an overplus for himſelf, they that were ſo wronged have complained to the Kings Juſtices in *Eyre*, and have been remedied; But were never found to complain to their unintelligible Soveraigns, or to have any proceſs from them to levy their Expences, or to Petition to have them paid out of the Lands & Eſtates of thoſe that ſent them, or was granted by any Order or Procurations of thoſe that ſent them. Or if all the people of *England*, who are and ſhould be certainly to be known and Ranked according to their ſeveral degrees and qualities, unleſs all ſhould be levelled into a Lump informity or menſtroſity Higeldy Pigheldy, all Fellows at Football, it might put Heraldry it ſelf at a ſtand, or out of its wits to diſtinguiſh how much of a Knight of a Shire is a Duke, Marqueſs, Earl, Viſcount, Baron, Knight, Eſquire, Gentleman, Yeoman, or Common Freeholder, or the Widdows or Feme Soles of any of them reſides, or is incorporate in that one Knight of a Shire, or how much in the other Knight of the Shire, when by the Kings Writs there were to be no more than two, and by *Oliver Cromwels* the Uſurpers Writs, there was as many as ſix, and when in his Time of Villany two Engliſh Earls, Knights of the Kings Honourable Order of the Garter, ſate as Members of that which was miſcalled the Houſe of Commons in Parliament, although it might well deſerve the Queſtion of what

what Nation they were or Riddle, my Riddle what is this, how much of them were Earls or Commons, or what Epiceen or Hermophrodite kind of men they were, or whom (if not very Rebels, they did then and there repreſent?

Or whether the Knights and Burgeſſes of *England* and *Wales*, as they were admitted into the Houſe of Commons from the 48th and 49th year of the Raign of King *Henry* 3. until the Raign of King *Henry* the 7th did or could repreſent, for *Ireland Gaſtoign*, the Iſles, and other Dominions of our Kings, and ſometime *Scotland*, for which until then there were Receivers and Triers of Petitions particularly appointed for thoſe other Dominions and places, or who did repreſent for *Wales* the Biſhoprick of *Durham* before there were Knights of the Shires and Burgeſſes allowed by our Kings, or for the Town of *Newark* upon *Trent* ſo lately priviledged by his now Majeſty, or whether they do in one entire and complexed Body repreſent for all the Commons of *England*, when as the Journals, Parliament Rolls and Memoriols can inform us that ſometimes the City of *London*, as alſo other particular places have ſeparately petitioned the King, and not at all Times in a generality name and behalf of all the Commons of *England*, Servants, Mechanicks and Labourers, *&c.* which being no Freeholders or Electors, can never be underſtood to have given any of the Members of the Houſe of Commons any procurations jointly or ſeparately to give any conſent or repreſent for them in Parliament.

So that whatſoever hath or ſhall be done or acted in Parliament either for Leaſe or Copyholders *villani Bordarii*, Mechanicks, Labourers, Servants, *&c.* Neither is or can be obliging to thoſe multitudes otherwiſe than by the Soveraign power of the King, when by the Energy, and Vertue of his Royal Aſſent that which was before but an *Embrio* comes to be aminated, and have as it were a Life and a Soul breathed or put into it by his ſanction, or giving it the force of a Law by his, and no others Act of Parliament further than the advice of the Lords Spiritual and Temporal, and the Aſſent or Approbation of the Commons in Parliament aſſembled.

Or how they can by or with any Law, Right, Reaſon,

Conſtruction, propriety of Speech or Grammar be ſaid or believed to repreſent thoſe of the Commons of *England* whom they have many times accuſed and take upon them to impriſon or puniſh.

When our Parliaments have been, or ſhould be founded upon the Feudal Laws, our Monarchick beſt of Governments, and there could be no Election of Members of the Houſe of Commons to come to Parliament *ad faciendum & conſentiendum iis*, which the King by the adviſe of the Lords Spiritual and Temporal ſhould there ordain, not in *omnibus*, in all matters, for that was the proper care and buſineſs of our Kings and Princes, and their private Councel, by whoſe advice the Writs of Summons iſſued out under the Kings great Seal of *England*, to Summon the Lords Spiritual and Temporal to a Parliament to conſult not *de omnibus*, or *de omnibus arduis*, but *de quibuſdam arduis*, and until the 49th of King *Henry* 3. when *Simon Montforts* Rebellious Parliament and his Counterfeit Writs of Election of Members to be a then endeavoured to be conſtituted Houſe of Commons in Parliament, received its firſt foundation, and gave the occaſion and encouragement to many Rebellions and Miſchiefs afterward and from the 21, and 22 *E.* 1. until that gave it ſome rectifyed allowance unto ſuch a kind of Election and Convention of Members in an Houſe of Commons in Parliament to be aſſembled; the ſo Elected Members of Commons of Parliament could neither meet or aſſemble, until there were Writs of Summons iſſued out to aſſemble the Lords Spiritual and Temporal as Peers not unto the King, but one unto the other in Parliament, for when the Lords Spiritual and Temporal are not to be aſſembled by the Kings Writs of Summons, the Commons cannot be Elected to attend the King and the Lords Spiritual and Temporal, for to meet without ſo much as unto Markets or Fairs, or Indulgent allowance of our Kings would be a breach of the Kings Peace, which ſhould be ſo ſacred and ever was accompted to be of ſo great a concernment unto him and his people, as when he pardoned any of his offending Subjects againſt his Laws, the ancient forms of our Kings pardons were only without enumerating, or particular ſpecification of the Crimes *damus & concedimus pacem noſtram*, and gives us the reaſon that all our Parliaments

Parliaments as well relating either to the upper or lower Houſe, do ſpecially except *Treaſon*, *Felony*, or *breach of Peace*, which ſeemeth certainly to be no other than a neceſſary Clauſe, added by our Kings in their priviledges of Parliament. And otherwiſe it would be an unread, unheard, & unintelligible mixture of a Supremacy or *S*overaignty, that a King deriving his *S*overaignty only from God, and his People and Subjects ſworn unto him by their Oaths of Allegiance and Supremacy, and obliged unto him for their Eſtates and Self-preſervation, at the ſame time be inveſted with a Soveraignty, which is to be certainly placed amongſt the moſt puzling Riddles of *Madam Sphinx*, and none of the over-turning *Republicans*, can give us no manner of ſolution until all the *Vulgus* or Rabble multitude of the World can be perſuaded to be of one mind, and for many years continue therein, and all *impoſſibles* come to be *poſſible*.

And there cannot be a greater abſurdity offered to the Common Intellect or underſtanding of mankind, than to endeavour to perſwade them that there is a plurality of Soveraigns, and that all the Subjects of *England* do or can repreſent the King, and are his Soveraigns, or that he is the Subject or general Servant of ſo many Millions of people, as he is rightfully King of, and are ſworn unto him by the Oaths of Allegiance and *S*upremacy, but are conditionally only his *S*ubjects until ſome fair opportunity to Arraign him at the ſuit of his own *S*ubjects, cut off his head, and extirpe him and his Illuſtrious Family, by no other Warrant than to ſet up the Kingdom of *Jeſus Chriſt*, who never yet gave them any Order or Authority to attempt any ſuch egregious Villany.

And ſhould not have been ſo locked up in their *Morphæus* commonly erring, wandring dreams or imaginations, as to think that two or three neceſſary priviledges only proper for Members of the Houſe of Commons in Parliament may be extended to all that they ſhall fancy or think to be neceſſary or ſuitable to their incroaching humours or deſigns, and may be very great looſers by the bargain, if by ſuch a Groſs miſtake they make all that is or ſhall be their own proper Eſtates allowed, or given unto them by the bounty and munificence of our Kings and Princes, and their Feudal Laws to be Priviledges of Parliament,

ment, when their Properties and Liberties are not Priviledges of Parliament; and all kind of Priviledges are and ought to be ſubject unto theſe two grand Rules of Law, and may and ought to be forfeitable by a *non uſer*, or *miſuer*, no *Præſcripton* or length of time in ſuch caſes being to be made uſe of, againſt the King, and ſome Corporations, as the Burrough of *Colcheſter* procured an Exemption from ſending Members to the Houſe of Commons in Parliament, in regard of their charge of Building or Repairing their Town-walls, and *New-Caſtle* upon *Tyne*, did the like *propter inopiam*, and charge and trouble to defend themſelves againſt the *Scots*; and Priviledges of Parliament are not, nor can with any propriety of Speech, Truth, Reaſon or Underſtanding, be called Liberties, Properties or Franchiſes, which they that make ſuch a noiſe with them, would be ſorry to have ſo brittle, ſhort or uncertain Title in, or unto their own Rights in their own Eſtates, Lands or Livelihoods, and had better be at the charge to go to School again, or fee a *Lawyer*, to inſtruct or make them underſtand the difference betwixt Priviledges of Parliament, and Priviledges that do no way appertain unto the aforeſaid Parliament-Priviledges, and betwixt *Privilegium* and *Proprium*, and cannot ſure be ſo vain or fooliſh, as to think that they were Elected by the Peoples Authority, and their own, and not by the Kings, or that after the King hath allowed them a Speaker, for otherwiſe he muſt be at the trouble to forſake his own proper place, Chair of Eſtate or Throne in the Houſe of Peers, and ſit in the Houſe of Commons with them, and hear their Debates, Diſcourſes and Speeches, *pro aut contra*, which might have abridged them of their Priviledge of Freedom of Speech granted at his allowance of their Speaker, or that by the immediate cauſing to be carried before that their allowed Speaker in the preſence of theſe many Members of the Houſe of Commons, that came to attend him to the King, one of his Royal *Maſſes* or *Maces* Crowned, uſually born before our King, as Enſigns of Majeſty to attend him during the time of his Speakerſhip at home or abroad in the Houſe of Commons in Parliament, or without, whether it continue for a ſhort or long time, as many of our Parliaments have done, with an allowance of five pounds *per diem* for his Houſe-

keeping

keeping and Table-proviſion, whereof many of their Members do not ſeldom partake (the *Lord Steward* of the Kings Houſhold having likewiſe a large Allowance of Expences by the King for his Table, to entertain ſuch of the Nobility and others, as during the time of Parliament will come to eat with him) beſides many large Fees in the making of Orders, and paſſing of Bills or Acts of Parliament for Laws, Naturalizations, *&c.* which could not be legally taken without the Kings Tacit permiſſion (the late illegal and unparliamentary way never uſed in any Kingdom, Senate or Republick, or in this Kingdom, to ſuffer their Speaker or his Clerks, to make a great weekly gain by the Printing and Publiſhing, to be ſold at every Sationers or Bookſellers Shops, and cryed up and down the Streets in *London* and *Weſtminſter*, by Men, Women, Girls and Boys, all that is, or hath been done in the Commons Houſe of Parliament to the no ſmall profit of their Speaker excepted) or that when any perſon not of that Houſe, who have not by any ſuppoſed Priviledge, any *Serjeant*, *Lictor*, *Catchpole* or *Meſſenger faſtes* or *ſecures* to attend them, or any particular Priſon allotted unto them who by their Commiſſions, Elections or Truſts repoſed in them by their King and Countries, may ſearch, and never find any power or Authority lodged in them, who never were or are any Court of Judicature, to Seiſe, Arreſt, or Impriſon any of their Fellow Subjects, but ſince that late Incroachment which hath no older a Date, than about the latter end of the Raign of our King *James* the Firſt, who upon his obſervation of ſome of their Irregularities, jeſtingly ſaid that the Houſe of Commons in Parliament were an Houſe of Kings, it never being intended by thoſe that Elected them, or our Kings and Princes that admitted them, that they ſhould have or exerciſe any power tc Seiſe or Impriſon, or any place or Priſon allowed by our Kings as their particular Priſon, and though it appears that they had in the latter end of the Raign of King *Henry 6* a Clerk, yet it was by the grants of our Kings, & by themſelves have by the Kings permiſſion appointed Door-keepers, but upon any occaſion or cauſe of Impriſonment, or puniſhing any offenders, could find no other means, Præſident or way unto it, than to make uſe of the Kings Serjeant at Arms attending their Speaker, who arreſteth, and

either carrieth them to Priſon to the Tower of *London*, which is no Priſon appropriate to matters of Parliament, either to the Houſe of Peers, who are to conſult and adviſe their Soveraign, or the Houſe of Commons to Aſſent and obey, (the Tower of *London* being only the Kings Priſon for ſpecial offenders) and more than ordinary ſafe Cuſtody the *Marſhallſea* for the Courts of Kings-Bench, and *Marſhallſea*, the *Fleet* for the moſt of the Courts in *Weſtminſter-Hall*, that was anciently the Kings Houſe or Palace, every County or City in *England* and *Wales*, and the Court of Admiralty having their particular Priſons appertaining to their Coercive Power ſubordinate to their King, every Priſon being alwaies ſtiled and ſaid to be *priſona noſtra*, or *priſona domini Regis*, the Priſon for or of the King, whereby to reſtrain offenders of their Liberties, and keep them in the Cuſtody of the Law until they can be tryed, and give Satisfaction to the Law ſo as if there were no other cogent arguments or evidences amongſt multitudes of thoſe that in our Annals and Records, and the whole frame and conſtitution of our Kingly government, to ſupport and juſtify the Soveraignty thereof, that only one of our Kings allowing their Speaker the attendance of one of their *Serjeant at Arms*, with his Maſs, or Mace, as an Enſign of Royal Majeſty with a penſion for his ſupport and Houſe keeping, and an allowance of large Fees as aforeſaid, might be ſufficient to proclaim a moſt certain Soveraignty and Supremacy in our Kings and Princes, and none at all in the Houſe of *Commons*, who may do well to take more heed in their ways and incroaching upon Regal Authority, which in the Raigns of King *Edward* the third and King *Richard* the 2d upon leſs overt-acts and Præſumptions have been accompted and puniſhed as High Treaſon.

§ 27.

§ 27.

That no Impeachment by all or any of the Members of the House of Commons *in Parliament, or of the House of* Peers *in Parliament, hath, or ever had any Authority to invalidate, hinder or take away the power, force or effect of any the pardons of our Kings or Princes, by their Letters Patents or otherwise, for High Treason or Felony, Breach of the Peace, or any other crime or supposed delinquency whatsoever.*

FOR if *Monarchy* hath been by God himself, and the Experience of above 5000 years and the longest Ages of the World approved (as it hath) to have been the best and most desirable form of Government.

And the Kingdom of *England*, as it hath been, for more than 1000 years, a well tempered *Monarchy*, and the Sword and Power thereof was given to our Kings only by God that ruleth the Hearts of them.

The means thereunto which should be the Power of Punishment and Reward, can no way permit, that they should be without the Liberty and Prerogative of Pardoning, which was no Stranger in *England* long before the Conquest, in the Raign of King *Athelstane*, who did thereby free the Nation from four-footed Wolves by ordaining Pardons to such Out-Laws as would help to free themselves and others from such villanous Neighbours, the Laws, of *Canutus* also making it a great part of their business to enjoyn a moderation in punishments *ad divinam clementiam temperata* to be observed in Magistracy, and never to be wanting in the most Superior, none being so proper to acquit the offence as they that by our Laws are to take benefit by the Fines and Forfeitures arising thereby, and *Edward* the Confessors *Laws* would not have *Rex Regni sub cujus protectione & pace degunt universi*, to be without it; when amongst his Laws, which the People of *England* held so sacred, as they did hide them under his *Shrine*, and afterwards *precibus & fletibus* obtained of the *Conqueror*, that they should be observed, and procured the observation of them especially to be inserted in the *Coronation-Oaths* of our succeeding Kings, inviolably to be kept. And

LI. *Canuti.*

And it is under the Title of *miſericordia Regis & Pardonatio*, declared, That *Si quiſpiam forisfactus* (which the Margin interpreteth *rei Capitalis reus*) *popoſcerit Regiam miſericordiam pro forisfacto ſuo, timidus mortis vel membrorum per dendorum, poteſt Rex ei lege ſuæ dignitatis condonare ſi velit etiam mortem promeritam; ipſe tamen malafactor rectum faciat in quantumcunque poterit quibus forisfecit, & tradat fidejuſſores de pace & legalitate tenenda ſi vero fidejuſſores defecerint exulabitur a Patria.*

LI. Edwardi Confeſſor, p. 19.

For the pardoning of Treaſon, Murder, breach of the Peace, *&c.* ſaith King *Henry* the Firſt, in his Laws, ſo much eſteemed by the Barons and Contenders for our *Magna Charta*, as they ſolemnly ſwore they would live and die in the defence thereof, do ſolely belong unto him, *& ſuper omnes homines in terra ſua.*

LI. H. 1.

In the fifth year of the Raign of King *Edward* the Second, *Peirce Gaveſton* Earl of *Cornwal*, being baniſhed by the King in Parliament, and all his Lands and Eſtate ſeized into the Kings hands, the King granted his Pardons, remitted the Seizures, and cauſed the Pardon and Diſcharges to be written and Sealed in his Preſence.

Rot. Clauſ. 5. E. 2. in dorſo, m. 15.

And howſoever he was ſhortly after upon his return into *England*, taken by the Earl of *Warwick* and beheaded without Proceſs or Judgment at Law, yet he and his Complices thought themſelves not to be in any ſafety, until they had by two Acts of Parliament in the ſeventh year of that Kings Raign obtained a Pardon, *Ne quis occaſionetur pro reditu & morte* Petri *de* Gaveſton, the power of pardoning, being always ſo annexed to the King and his Crown and Dignity.

And the Acts of Parliament of 2 *E.* 3. *ca.* 2. 10 *E.* 3. *ca.* 15. 13 *R.* 2. *ca* 1. and 16 *R.* 2. *ca.* 6. ſeeking by the Kings Leave and Licence in ſome things to qualifie it, are in that of 13 *R.* 2. *ca* 1. content to allow the Power of Pardoning to belong to the Liberty of the King, and a Regality uſed heretofore by his Progenitors.

Hubert de Burgh Earl of *Kent*, Chief *Juſticiar* of *England*, in the Raign of King *Henry* the third, laden with Envy, and as many deep Accuſations as any *Miniſter* of *State* could lie under, in two ſeveral Charges in ſeveral Parliaments, then without an Houſe of Commons, had the happineſs, notwithſtanding all the hate and extremities

Mat. Paris.

put

put upon him by an incenſed Party, to receive two ſeveral Pardons of his and their King, and dye acquitted in the Eſtate which he had gained. Ro. Clauſ. 16. H. 3 m. 4. & 3. Ro Patent. 17 H. 3. m. 11. n. 1. Ro. Clauſ. 35 H. 3 n. 6. *Mat. Paris.*

Henry de Bathoina a Chief Juſtice of *England* being in that Kings Raign accuſed in Parliament of Extortion and taking of Bribes, was by the King pardoned.

In the fifieth year of the Reign of King *Henry* the third, the Commons in Parliament petitioning the *King*, that no Officer of the Kings, or any man, high or low, that was impeached by them, ſhould enjoy his Place or be of the Kings Council. Rot. pat. 50. E. 3.

The King only anſwered, he would do as he pleaſed.

With which they were ſo well ſatisfied, as the next year after, in Parliament, upon better conſideration, they petitioned him, that *Richard Lyons*, *John Pechie*, and *Alice Pierce*, whom they had largely accuſed and believed guilty, might be pardoned. Rot. pat. 51. E. 3.

And that King was ſo unwilling to bereave himſelf of that one eſpecial Flower in his Crown, as in a Grant or Commiſſion made in the ſame year to *James Botiller* Earl of *Ormond* of the Office of *Chief Juſticiar* of *Ireland*, giving him power under the Seal of that Kingdom to pardon all Treſpaſſes, Felonies, Murders, Treaſons, *&c* he did eſpecially except and reſerve to himſelf the power of pardoning Prelates, Earls and Barons. Rot. Clauſ. 51. E. 3.

In the firſt year of the Raign of King *Henry* the fourth the *King* in the Caſe of the Duke of *Albemarle* and others, declared in Parliament, that Mercy and Grace belongeth to Him and his Royal Eſtate, and therefore reſerved it to himſelf, and would that no man entitle himſelf thereunto. Rot. pat. 1 H. 4.

And many have been ſince granted by our ſucceeding *Kings* in Parliament, at the requeſt of the Commons (the People of *England* in Worldly and Civil Affairs as well ever ſince, as before, not knowing unto whom elſe to apply themſelves for it.

So as no fraud or indirect dealings being made uſe of in the obtaining of a Pardon, it ought not to be ſhaken or invalidated, whether it were before a Charge or Accuſation in Parliament or after, or where there is no Charge or Indictment ant cedent.

The Pardon of the *King* to *Richard Lyons* at the re-

queſt of the *Commons* in *Parliament*, as the Parliament Rolls do mention, although it was not inſerted in the Pardon, was declared to be after a charge againſt him by the *Commons* in *Parliament*, and in the percloſe ſaid to be *per Dominum Regem.*

And a ſecond of the ſame date and tenor, with a percloſe ſaid to have been *per Dominum Regem & magnum Concilium.*

John Pechies pardon for whom that Houſe of Commons in Parliament was ſaid to intercede, only mentioneth that it was *precibus aliquorum Magnatum.*

Rot. pat. 15. E. 3. 15 *E.* 3. The *Archbiſhop of Canterbury* before the King and Lords, humbling himſelf before the King, deſired that where he was defamed through the Realm, he might be arraigned before his Peers in open Parliament: Unto which the King anſwered, that he would attend the Common Affairs, and afterward hear others.

Rot. pat. 5. H. 4. 5 *H.* 4. The King at the requeſt of the Commons, affirmeth the *Archbiſhop of Canterbury*, the *Duke of York*, the Earl of *Northumberland*, and other Lords, which were ſuſpected to be of the confederacy of *Henry Percy*, to be his true Leige-men, and that they nor any of them ſhould be impeached therefore, by the King or his Heirs in any time enſuing.

Rot. pat. 9. H. 4. 9 *H.* 4. The *Speaker* of the Houſe of *Commons* preſented a Bill on the behalf of *Thomas Brooke* againſt *William Widecombe*, and required Judgment againſt him; which Bill was received, and the ſaid *William Widecombe* was notwithſtanding bound in a 1000 pound to hear his Judgment in Chancery.

Rot. pat. 38. H. 6. And the many reſtorations in blood and eſtate in 13 *H.* 4. and by King *E.* 4 and of many of our Kings may inform us how neceſſary and beneficial the pardons, and mercy of our Kings and Princes have been to their People and Poſterities

The Commons accuſe the Lord *Stanley* in ſundry particulars, for being confederate with the *Duke of York*, and pray that he may be committed to priſon: To which the King anſwered, he will be adviſed.

And Pardons before Indictments or proſecution have not been rejected for that they did anticipate any troubles which might afterwards happen

For ſo was the *Earl of Shrewsbury*'s in the Raign of Queen

Queen *Elizabeth* for fear of being troubled by his ill-willers for a ſudden raiſing of men without a warrant to ſuppreſs an inſurrection of Rebels.

Lionell Cranfeild Earl of *Middleſex* Lord Treaſurer of *England*, being about the 18th year of King *James*, accuſed by the Lords and Commons in Parliament, for great offences and miſdemeanours fined by the King in Parliament to be diſplaced, pay 50000 *l.* and never more to ſit in Parliament, was in the 2d year of the Reign of King *Charles* the Martyr, upon his Submiſſion to the King, and payment of 20000 *l.* only, pardoned of all Crimes, Offences and Miſdemeanors whatſoever any Sentence, Act, or Order of Parliament, or the ſaid Sentence to the contrary notwithſtanding.

For whether the accuſation be for Treaſon wherein the King is immediately and moſt eſpecially concerned, or for leſſer Offences, where the people may have ſome concernment, but nothing near ſo much or equivalent to that of the Kings being the ſupreme Magiſtrate, the King may certainly pardon, and in many pardons as of Outlaries, Felonies, *&c.* there have been conditions annexed. ***Ita quod ſtent recto ſi quis verſos eos loqui voluerit.***

So the *Lord Keeper Coventry* in the Raign of King *Charles* the *Martyr* to prevent any dangerous queſtions, touching the receiving of Fines and other Proceedings in Chancery, ſued out his Pardon.

The many Acts of Oblivion, or general Pardon, granted by many of our Kings and Princes, to the great comfort and quiet of their Subjects, but great diminution of the Crown Revenue did not make them guilty, that afterwards protected themſelves thereby from unjuſt and malicious Adverſaries.

And where there is not ſuch a clauſe, it is always implyed by Law in particular mens caſes, and until the Soveraignty can be found by Law to be in the People, neither the King or his people (who by their Oaths of Allegiance and Supremacy are to be ſubordinate unto him) are to be deprived of his *haute ex baſſe Juſtice*, and are not to be locked up or reſtrained by any Petition, Charge or Surmiſe which is not to be accompted infallible, or a truth, before it be proved to the King and his Council of Peers in Parliament, and our Kings that gave

gave the Lords of Mannors, Powers of *Soke* and *Sake*, *Infangtheif*, and *Outfangtheif* in their Court Barons, and ſometimes as large as *Foſſarum & Furcarum*, and the incident Power of Pardons and Remiſſions of Fine and Forfeitures which many do at this day without contradiction of their other Tenants enjoy, ſhould not be bereaved of as much liberty in their primitive and ſupream Eſtates as they gave them in their derivatives.

And though there have been Revocations of Patents during pleaſure, of Protections and Preſentations, and Revocations of Revocations *quibuſdam certis de cauſis*, yet never was there any Revocation of any Pardons granted where the King was not abuſed or deceived in the granting thereof.

For in Letters Patents for other matters, Reverſals were not to be accounted legal, where they were not upon juſt cauſes proved upon Writs of *Scire facias* iſſuing out of the Chancery, and one of the Articles for the depoſing of King *Richard 2d.* being that he revok d ſome of his Pardons.

The *recepi's* of Patents of Pardon, or other things were ordained ſo to ſignifie the time when they were firſt brought to the Chancellour, as to prevent controverſies concerning priority or delays, made uſe of in the Sealing of them to the detriment of thoſe that firſt obtained them.

And the various forms in the drawing or paſſing of Pardons as long ago *His teſtibus*, afterwards *per manum* of the Chancellour, or *per Regem* alone, *per noſtre Main, vel per manum Regis*, or *per Regem & Concilium*, or *authoritate Parliamenti*, *per Regem & Principem*, *per Breve de privat. ſigillo*, or *per immediate Warrant* being never able to hinder the *energy* and true meaning thereof.

And need not certainly be pleaded in any ſubordinate Court of Juſtice without an occaſion, or to purchaſe their allowance who are not to controul ſuch an Act of their Sovereign.

Doctor *Manwaring* in the fourth or ſixth Year of the Raign of King *Charles* the *Martyr* being grievouſly fined by both Houſes of Parliament, and made incapable of any place or Imployment, was afterwards pardoned and made

made Biſhop of St. *Aſaph* with a *non obſtante* of any Order or Act of Parliament.

So they that would have Attainders paſs by Bill or Act of Parliament to make that to be Treaſon which by the Law and antient and reaſonable Cuſtoms of *England*, was never ſo before to be believed or adjudged, or to Accumulate Treſpaſſes and Miſdemeanors to make that a Treaſon which ſingly could never be ſo, either in truth, Law, right, reaſon or Juſtice.

May be pleaſed to admit and take into their ſerious conſideration, that Arguments *a poſſe ad eſſe*, or *ab uno ad plures*, are neither uſual or allowable, and that ſuch a way of proceeding will be as much againſt the Rules of Law, Honour and Juſtice, as of Equity and good Conſcience.

And may be likewiſe very prejudicial to the very ancient and honourable *Houſe* of *Peers* in *Parliament*, for theſe and many more to be added Reaſons, *viz.*

Former Ages knew no Bills of Attainder, by *Act* of *Parliament* after an Acquittal or Judgment in the *Houſe* of *Peers*, until that unhappy one in the Raign of King *Charles* the *Martyr*, which for the unuſualneſs thereof had a ſpecial *Proviſo* inſerted, That it ſhould not hereafter be drawn into Examples or made uſe of as a Preſident.

And proved to be ſo fatally miſchievous to that bleſſed King himſelf, and His three Kingdoms of *England Scotland* and *Ireland*, as he bewailed in his excellent Soliloquies, and at his Death, his conſenting to ſuch an Act, and charged His late Majeſty never to make Himſelf or His People, to be partakers of any more ſuch Miſchief procuring State-Errors

The Houſe of Commons if they will be Accuſers, wherein they may be often miſtaken, when they take it from others, and have no power to examine upon Oath, wild and envions Informations, and at the ſame time a part of the Parliament, ſubordinate to the King, will in ſuch an Act of Attainder be both Judge and Party, which all the Laws in the World could never allow to be juſt.

And ſuch a courſe, if ſuffered, muſt needs be derogatory and prejudicial to the Rights and Priviledges, and Judicative Power of the Peers in Parliament, unpa-

rallelled, and unpreſidented, when any Judgments given by them, ſhall by ſuch a Bill of Attainder, like a Writ of Error, or as an Appeal from them to the Houſe of Commons, be enervated or quite altered by an Act of Attainder framed by the Houſe of Commons, whereby they which ſhall be freed or abſolved by their Peers, or by that Honourable and more wiſe Aſſembly, ſhall by ſuch a *back* or *by-blow* be condemned, or if only Fined by the Houſe of Peers, may be made to forfeit their Eſtates and Poſterities by the Houſe of Commons; or if condemned in the Upper Houſe, be abſolved in the Lower, who ſhall thereby grow to be ſo formidable as none of the Peerage, or Kings Privy-Councel ſhall dare to diſpleaſe them, and where the *dernier Reſſort*, or Appeal, was before and ought ever to be to the King in his Houſe of Peers, or without, will thus be lodged in the Houſe of Commons, and of little avail will the Liberty of our Nobility be to be tryed by their own Peers, when it ſhall be *contre cæur*, and under the Control of the Houſe of Commons.

Or that the Commons diſclaiming, as they ought, any power or Cogniſance in the matters of War and Peace, ſhould by a Bill of Attainder make themſelves to be Judges and Parties againſt a Peer, both of the Kings Privy Council and Great Council in Parliament, touching Matters of that Nature.

For if the *Commons* in *Parliament* had never after their own Impeachments of a *Peer* or *Commoner*, Petitioned the King to pardon the very Perſons which they had Accuſed, as they did in the Caſes of *Lyons* and *John Pechie*, in the 51 year of the Raign of King *Edward* the Third, whom they had fiercely accuſed in *Parliament* but the year before the Objection that a *Pardon* ought not to be a Bar againſt an Impeachment, might have had more force than it is like to have.

Neither would it, or did it diſcourage the exhibiting any for the future, no more than it did the many after Impeachments, which were made by the *Commons* in ſeveral *Parliaments*, & Kings Raigns, whereupon puniſhments ſevere enough enſued; For if the very many Indictments and Informations at every Aſſizes and Quarter Seſſions in the Counties, and in the Court of *Kings-Bench* at *Weſtminſter*, in the Term time, ever ſince the Uſurpa-

Uſurpation and Raign of King *Stephen* and the *Pardons* granted ſhall be exactly ſearched and numbred, the foot of the Accompt will plainly demonſtrate, that the *Pardons* for Criminal Offences have not been above, or ſo many as one in every hundred, or a much ſmaller and inconſiderable number, either in or before the firſt or latter inſtance, before Tryal or after, and the *Pardons* granted by our Kings, ſo few and ſeldom, as it ought to be confeſt, that that Regal Power only proper for Kings, the Vicegerents of God Almighty, not of the People, hath been modeſtly and moderately uſed, and that the multitude of Indictments and Informations, and few Pardons now extant in every year, will be no good Witneſſes of ſuch a cauſeleſly feared diſcouragement.

And it will not be ſo eaſily proved, as it is fancied, that there ever was by our Laws or reaſonable Cuſtoms any Inſtitution to preſerve the Government by reſtraining the Prince, againſt whom and no other, the Contempt and Injury is immediately committed from pardoning offences againſt Him, and in Him againſt the People to whoſe charge they are by God intruſted.

Or that there was any ſuch Inſtitution (which would be worth the ſeeing if it could be found or heard of) that it was the Chief to be taken care of, or that without it conſequently the Government it ſelf would be deſtroyed

To prove which groundleſs Inſtitution the Author of thoſe Reaſons is neceſſitated (without reſorting, as he ſuppoſeth, to greater Antiquities) to vouch to Warranty the Declaration of that excellent Prince, King *Charles* the Firſt of Bleſſed Memory, made in that behalf (when there was no Controverſie or Queſtion in agitation or debate touching the power of pardoning) in his Anſwer to the nineteen Propoſitions of both *Houſes* of *Parliament*, wherein ſtating the ſeveral parts of this well regulated Monarchy, he ſaith, the King, the Houſe of Lords, and the Houſe of Commons, have each particular *Priviledges*.

Wherein amongſt thoſe which belong to the King, he reckons the power of pardoning, if the Framer of thoſe Reaſons had dealt fairly and candidly, and added the Words immediately following, *viz.* And ſome more of the like kind are placed in the King.

And

And this kind of excellently tempered *Monarchy*, having the power to preſerve that Authority, without which it would be diſabled to protect the Laws in their Force, and the Subjects in their Peace, Liberties and Properties, ought to have drawn unto him ſuch a reſpect and reverence from the Nobility and Great Ones, as might hinder the Ills of Diviſion and Faction; and cauſe ſuch a Fear and Reſpect from the People as might impede Tumults and Violence.

But the deſign being laid and deviſed to tack and piece together ſuch parcels of his ſaid late Majeſties Anſwer, as might make moſt for the advantage of the Undertaker, to take the Power of Pardoning from the Prince, and lodge it in the People, and do what they can to create a Soveraignty or Superiority in them, which cannot conſiſt with his Antient Monarchy, and the Laws and reaſonable Cuſtoms of the Kingdom, the Records, Annals and Hiſtories, Reaſon, Common Senſe and underſtanding thereof, the long and very long approved uſages of the Nation, and Oaths of Allegiance and Supremacy of thoſe that would now not only deny but be above it.

And would make the King, by ſome ſcattered or diſtorted parts of that Anſwer, mangled and torn from the whole context and purpoſe of it, to give away thoſe undoubted Rights of his Crown, for which, and the preſervation of the Liberties of his People, he died a *Martyr*; the Author and his Party endeavouring all they can to tranſlate the Aſſent of the *Commons* required in the Levying of Money into that of the power of pardoning, and jumbling the Words and Senſe of that Royal Anſwer, cements and puts together others of their own to fortifie and make out their unjuſt purpoſes, omitting every thing that might be underſtood againſt them, or give any diſturbance thereunto.

And with this reſolution the Author proceedeth to do as well as he can, and ſaith, that

After the enumeration of which, and other his Prerogatives, his ſaid Majeſty adds thus; Again (as if it related to the matter of pardoning, which it doth not at all, but only and properly to the Levying of Money wherein that Miſinterpreter can afford to leave out his ſaid Majeſties Parentheſis (*which is the Sinews as well of Peace*

as

as War) that the Prince may not make uſe of this high and perpetual Power to the hurt of thoſe for whoſe good he hath it, and of Publick Neceſſity (which clearly evidenceth that his late Majeſty thereby only intended that part of his Anſwer to relate to the levying of Money) for the gain of his private Favourites and Followers to the detriment of his People.

Exact Collection of Remonſtrances, Declarations and Meſſages betwixt his late Majeſty and the Parliament, Printed by Order of the Commons in Parliament, 24. *March*, 1642.

Whither being come, our Man of Art or putter of his Matters together, finds ſome words which will not at all ſerve is turn, incloſed in a Royal Parentheſis of his late Majeſty, *viz.* (*An excellent Conſerver of Liberty, but never intended for any ſhare in Government, or the chooſing of them that ſhould govern*) but looked like a deep and dangerous Ditch which might *Sowſe him over head and ears*, if not drown him and ſpoil all his inventions, and therefore well bethinks himſelf, retires a little, begins at An excellent Conſerver of Liberty, makes that plural, adds, *&c.* which is not in the Original, fetches his *feeze* and leaps quite over all the reſt of the Parentheſis, as being a *Noli me tangere* dangerous words, and of evil conſequence, and having got over goeth on untill he came to ſome juſt and conſiderable expoſtulations of his late Majeſty, and then as if he had been in ſome *Lincolnſhire* Fens and Marſhes, is again enforced to leap until he come to, Therefore the Power legally placed in both Houſes, is more than ſufficient to prevent and reſtrain the Power of Tyranny.

But not liking the ſubſequent words of his late Majeſty, *viz. And without the Power which is now asked from Us, we ſhall not be able to diſcharge that Truſt which is the end of Monarchy, ſince that would be a total ſubverſion of the Fundamental Laws, and that excellent Conſtitution of this Kingdom, which hath made this Nation for many years both famous and happy to a great degree of envy*, is glad to take his leave with an, *&c.* and meddle no more with ſuch Edge-Tools, wherewith that Royal Anſwer was abundantly furniſhed.

But looks back and betakes himſelf to an Argument framed out of ſome Melancholick or Feveriſh Fears and Jealouſies, that until the *Commons* of *England* have right done unto them againſt that *Plea of Pardon*, they may juſtly apprehend that the whole Juſtice of the Kingdom in the Caſe of the *five Lords*, may be obſtructed and de-

feated by Pardons of a like nature.

As if the pardoning of one muſt of Neceſſity amount to many, or all, in offences of a different nature committed at ſeveral times by ſeveral perſons (which is yet to be learned) and the Juſtice of the Nation which hath been ſafe and flouriſhed for many Ages, notwithſtanding ſome neceſſary Pardons granted by our Princes, can be obſtructed or defeated in a well conſtituted Government under our Kings and Laws; ſo it may everlaſtingly be wondred upon what ſuch jealouſies ſhould now be founded, or by what Law or Reaſon to be ſatisfied, if it ſhall thus be ſuffered to run wild or mad.

For *Canutus* in his Laws ordained that there ſhould be in all Puniſhments a *moderata miſericordia*, and that there ſhould be a *miſericordia in judicio exhibenda*, which all our Laws, as well thoſe in the *Saxon* and *Daniſh* times as ſince, have ever intended, and it was wont to be a parcel of good Divinity, that *Gods Mercy is over all his Works*, who not ſeldom qualifies and abates the Rigour of his Juſtice. LL. *Canuti.*

When *Triſſilian* Chief Juſtice, and *Brambre* Major of *London*, were by Judgment of the Parliament of the Eleventh of King *Richard* the ſecond, Hanged and Executed, the *Duke* of *Ireland* baniſhed, ſome others not ſo much puniſhed, and many of their Complices pardoned, the People that did not know how ſoon they might want Pardons for themſelves, did not afflict themſelves or their Soveraign with Complaints and Murmurings, that all were not Hanged and put to the extremities of Puniſhment; nor was *Richard* Earl of *Arundel*, one of the fierce Appellants in that Matter, vexed at the pardoning of others, when he in a Revolution and Storm of State was within ten years after, glad to make uſe of a Pardon for himſelf. Rot. Parl 21 R. 2.

King *James* was aſſured by his Councel that he might pardon Sir *Walter Rawleigh*, the Lord *Cobham*, Sir *Griffin Markham* with many others then guilty of Treaſon, and the Earl of *Somerſet* and his Lady, for the Murder of Sir *Thomas Overbury*, without any commotion in the Brains of the reſt of his Subjects, ſome of whom were much diſturbed that he after cauſed Sir *Walter Rawleigh* to be executed for a ſecond Offence upon the Score of the former, not at all pardoned, but reprieved or only reſpited. And

And therefore whileſt we cry out and wonder *quantum mutantur tempora*, may ſeek and never find what ever was or can be any neceſſary cauſe or conſequence, that the *five Lords* accuſed of High Treaſon, and a deſign of killing the King, will be ſure to have a Pardon, if that the Pardon of the Earl of *Danby*, whoſe deſign muſt be underſtood by all men rather to preſerve him, ſhall be allowed.

Nor doth an Impeachment of the Houſe of Commons virtually, or ever can from the firſt Conſtitution of it be proved or appear to be the voice of every particular Subject of the Kingdom; for if we may believe Mr. *William Pryn*, one of their greateſt Champions, and the Records of the Nation and Parliaments, the Commons in Parliament do not, or ever did Repreſent, or are Procurators for the Lords Spiritual and Temporal, and their numerous Tenants and ancient Baronies, that hold in *Capite*, nor for the many Tenants that ſhould be of the Kings ancient Demeſne and Revenues, nor for the Clergy, the multitude of Copy-holders heretofore, as much as the fourth part of the Kingdom, neither the great number of Leaſe-holders, Cottagers, *&c.* that are not Free-holders, Citizens or Trades-men, nor can all the Members of the Body Politick be equally wounded in their Eſtates or concernments by the vain imaginations, cauſleſs fears, and jealouſies and bugbears of other ſeditious or fanciful Mens own making. *Pryns* 4 part of his Regiſter of Parliament Writs.

And to men that have not yet proceeded ſo far in the School of *Revelation* as to be ſure of the Spirit of Propheſie, it may prove a matter of ill conſequence that the univerſality of the People ſhould have occaſion miniſtred and continued to them to be apprehenſive of utmoſt dangers from the Crown, from whence they of right expect Protection.

And a Wonder next a Miracle, from whence the Premiſſes to ſuch a trembling and timorous concluſion can be fetched, or how a People, whoſe valiant and wiſer Fore-fathers were never heretofore ſcared with ſuch *panick fears*, nor wont to be affrighted with ſuch *Phantaſmes*, ſhould now ſuſpect they can have no Protection from the Crown, when ſome of them do at the ſame time labour all they can to hinder it.

Or

Or how it ſhould happen in the long Rebellious Parliament that after Mr. *Chaloner* a Linnen Draper of *London*, was hanged for Plotting a Surprize of the City of *London*, and reducing it to the Kings obedience, honeſt Mr. *Abbot* the Scrivener ſhould be pardoned without any ſuch diſcontent and murmuring of the People, or that *Oliver Cromwel* ſhould not be debarred of his Power, of Pardoning in his *Inſtrument of Government*, and be allowed to Pardon the Lord *Mordant*, for a ſuppoſed Treaſon againſt his uſurped Authority; and our King deriving his Authority, legally veſted in Him and His Royal Anceſtors, for more than one thouſand years before, may not adventure to do it without the utter undoing and ruine of his Subjects in their Properties, Lives and Eſtates, by His pardoning of ſome Capital Offenders: Or why it ſhould not be as lawful and convenient for the King to grant Pardons to ſome other Men, as to Doctor *Oates* or Mr. *Bedlow*.

When no Hiſtories *Jewiſh*, *Pagan* or *Chriſtian*, can ſhew us a People, unleſs in Caſes of intollerable Villanies, Petitioning their Kings, that they would not Pardon, when all are not like to be Saints or Faultleſs, and it will ever be better to leave it to the Hearts of Kings, and God that directs them, than to believe Tyranny to be a Bleſſing, and Petition for it.

And the moſt exact ſearch that can be made, when it findeth the Commons petitioning in Parliament to the King or Houſe of Peers, that they may be preſent at ſome Tryals there, upon their Impeachments, cannot meet with any one Preſident where they ever deſired, or were granted ſuch a reaſonleſs Requeſt, purſued and ſet on by other Mens Deſigns to have one Mans Tryal had before another, and by ſtrugling and wreſtling for it, expoſe the King and Kingdom to an utter deſtruction.

And therefore in thoſe their fond importunities might do well to tarry until they they can find ſome Reaſon why the Lords Spiritual may not Vote or Sit as Judges or Peers in Parliament, in the Caſe of the *five Lords*, as well as of the Earl of *Danby*.

Or any Preſident that it is or hath been according to Parliamentary proceedings to have any ſuch Vote or Requeſt made by the Commons in Parliament.

Who

Who neither were or ſhould be ſo omnipotent in the opinion of *Hobart* and *Hutton* and other the learned Judges of *England*, as to make a Puniſhment before a Law, or Laws with a Retroſpect, which God himſelf did never allow, but ſhould rather believe that Laws enacted contrary to the *Laws of God* and *Morality*, or that no Aids or Help are to be given to the King *pro bono Publico*, or that there ſhould be no Cuſtoms or Preſcription, or that the King ſhould be governed by His People, would be ſo far from gaining an Obedience to ſuch Laws or Acts of Parliament as to render them, to be *ipſo facto* null and of none effect.

When the King hath been as careful to diſtribute Juſtice as his Mercy, without violence to his Laws and well inform'd Conſcience hath ſometimes perſwaded him to Pardon, to do Juſtice, or to cauſe it to be done in a legal and due manner, and is ſo appropriate to the Office and Power of a King, ſo annext, appendant and a part of it, as none but His Delegates are to intermeddle or put any limits thereunto, and if it ſhould not be ſo ſolely inherent in Him would be either in abeyance or no where.

For the Houſe of Commons are not ſworn to do Juſtice, and if they were, would in ſuch a caſe be both Judges and Parties, and the Lords Spiritual and Temporal are not as to particular proceedings ſworn but meerly conſultive; So as Juſtice can veſt in none but the King, who is by his Coronation-Oath only ſworn to do it, if His Right of Inheritance and greater Concernments than any of his Subjects, did not abundantly ingage and prompt Him thereunto; and is therefore ſo every way, and at all times obliged to do Juſtice and Protect the Lives, Eſtates, Peace and Liberty of His Subjects, as he is with all convenient ſpeed and haſt to Try or bring to Judgment, a Subject accuſed of Treaſon by the Houſes of Lords and Commons, both or either of them in His Court of *Kings-Bench* before the Juſtices thereof, or by ſpecial Commiſſion by a Lord High Steward in or without the time of Parliament.

Pryns Animad. upon *Cokes* 4 Inſtit.

And the King may acquit (which amounteth to a Remiſſion or Pardon) by a more Supream Authority than any of His Judges (ſome particular Caſes wherein Appeals are, or may be brought, only excepted) do

ordinarily by an authority derived from no other, not to be debarred by probabilities, or poſſibilities, or by conſequences, not always to be foreſeen or avoided.

For a Man pardoned for Man-ſlaughter, may be ſo unhappy as in the like manner afterwards to be the death of five or ten more; 20000 Rebells pardoned at a time as in the Inſurrections of *Wat Tyler*, *Jack Cade*, *&c.* may be guilty of the like Offence, twenty or forty years after: The Lord Mayor of *London* that hath an allowance of Tolls and Profits to take a care of the City and wholſomneſs of Food, might be, as they are, too much careleſs, and undo them in their Health and well being.

The Judges may as thoſe in the Raign of King *Edward* the Firſt, and *Thorp* in the Raign of King *Edward* the Third, be guilty of Miſdemeanours, yet that is not to bereave us of that good which better Men may do us in their adminiſtration of Juſtice, our Kings have granted Priviledges to certain Cities and Towns not to pay Subſidies, and granted Pardons as their Mercies and right reaſon inclined them, in the courſe of their ſeveral Raigns for many Ages laſt paſt, yet have not acquitted or left unpuniſhed all the Offenders ever ſince, there being a greater likelyhood that they would not be ſo eaſie in pardoning, where they were to gain ſo much by Attainders, Fines and Forfeitures.

And therefore *panick* and vain Fears, ſuch as *in conſtantem virum cadere non poſſunt*, ſhould not be permitted to affright our better to be imployed Imaginations, unleſs we had a mind to be as wiſe as a ſmall and pleaſant Courtier of King *Henry* the Eighths, who would never endure to paſs in a Boat under *London*-Bridge leſt it ſhould fall upon his Head, becauſe it might once happen to do ſo.

Our *Magna Charta's* and all our Laws which ordain *no man to be condemned or puniſhed without Tryal by his Peers*, do allow it where it is by Confeſſion, Outlawry, *&c.* and no Verdict.

Did never think it fit that Publick Dangers, ſuch as Treaſon ſhould tarry, where Juſtice may as well be done otherwiſe without any preciſe Formalities to be uſed therein.

For although it may be beſt done by the advice of the

the Kings greateſt Council the *Parliament*, there is no Law or reaſonable Cuſtom of *England* either by Act of Parliament, or without, that reſtrains the King to do it only in the time of *Parliament*.

When the Returns, Law-Days and Terms appointed and fixt, have ever given place to our Kings Commiſſions of *Oyer* and *Terminer*, Inquiries, *&c.* upon ſpecial and emergent occaſions.

And notwithſtanding it will be always adviſeable that Kings ſhould be aſſiſted by their greateſt Council, when it may be had, yet there is no Law or Act of Parliament extant, or any right reaſon or conſideration to bind Him from making uſe of His ordinary Council in a Caſe of great and importunate neceſſity.

For Caſes of Treaſon, Felony and Treſpaſs, being excepted out of Parliament, firſt and laſt granted and indulged Priviledges by our and their Kings and Princes, there can be no ſolid Reaſon or cogent Argument to perſwade any man that the King cannot for the preſervation of Himſelf and His People, in the abſence or interval of Parliaments, puniſh and try Offenders in Caſes of Treaſon, without which there can be no Juſtice, Protection or Government, if the Power of the King and Supream Magiſtrate ſhall be tyed up by ſuch, or the like as may happen, Obſtructions.

So that until the Honourable Houſe of Commons can produce ſome or any Law, Agreement, Pact, Conceſſion, Liberty or Priviledge to Sit and Counſel the King, whether he will or no, as long as any of their Petitions remain unanſwered (which they never yet could or can) (thoſe grand Impoſtors and Figments of the *Modus tenendi Parliamenta*, and the ſuppoſed *Mirror of Juſtice*, being as they ought to be rejected) when the Parliament Records will witneſs that many Petitions have, for want of time (moſt of the ancient Parliaments not expending much of it) been adjourned to be determined in other Courts, as in the Caſe of *Staunton* in 14 *E.* 3. and days have been limited to the Commons for the exhibiting of their Petitions; the Petitions of the *Corbets* depended all the Raigns of King *Edward* the Firſt and Second, until the eleventh year of *Edward* the Third, which was about ſixty ſix years, and divers Petitions not diſpatched, have in the Raign of King *Richard* the Second,

cond, been by the King referred to the *Chancellor* and ſometimes with a direction to call to his aſſiſtance the *Juſtices* and the *Kings Serjeants* at *Law*, and the Commons themſelves have at other times prayed *to have their Petitions determined by the Councel of the King*, or by the *Lord Chancellor*. And there will be reaſon to believe that in Caſes of urgent neceſſity for publick ſafety, the King is and ought to be at liberty to try and puniſh great and dangerous Offenders without His Great Council of Parliament.

The Petitions in *Parliament* touching the pardoning of *Richard Lyons*, *John Peachie*, *Alice Peirce*, *&c* and a long proceſs of *William Montacute* Earl of *Salisbury* were renewed and repeated again in the *Parliament* of the firſt of *Richard* the Second, becauſe the *Parliament* was ended before they could be anſwered

Anno 1. of King *Richard* the Second, *John* Lord of *Gomenez* formerly committed to the Tower for delivering up of the Town of *Ardes* in that Kings time, of which he took upon him the ſafe keeping in the time of King *Edward* the Third, and his excuſe being diſproved, the Lords gave Judgment that he ſhould dye, but in regard he was a *Gentleman* and a *Baronet*, and had otherwiſe well ſerved, ſhould be beheaded, but Judgment
Rot. Parl. was howſoever reſpited until the King ſhould be thereof fully informed, and was thereupon returned again to the *Tower*.

King *Henry* the Second, did not tarry for the aſſembling a Parliament to try *Henry de Eſſex*, his Standard-bearer, whom he diſherited for throwing it down and affrighting his *Hoſt* or diſheartning it.

16 *E.* 2. *Henry de bello monte* a Baron refuſing to come to Parliament upon Summons, was by the King, Lords and Council, and the Judges, and Barons of the Exchequer then aſſiſting committed for his contempt to Priſon.

Anno 3 *E.* 3. the Biſhop of *Wincheſter* was indicted in the *Kings-Bench* for departing from the Parliament at *Salisbury*.

Neither did *Henry* the Eight forbear the beheading of His great Vicar General *Cromwell*, upon none or a very ſmall evidenced Treaſon, until a Parliament ſhould be Aſſembled.

The

The Duke of *Somerſet* was Indicted of Treaſon and Felony, the ſcond of *December*, *Anno* 3. & 4. *Edwardi* 6. ſitting the Parliament, which began the fourth day of *November*, in the third year of His Raign, and ended the firſt day of *February* in the fourth, was acquitted by his Peers for Treaſon, but found guilty of Felony, for which neglecting to demand his Clergy he was put to Death.

In the Raign of King *Philip* and Queen *Mary*, thirty nine of the Houſe of Commons in Parliament (whereof the famous Lawyer *Edmond Plowden* was one) were Indicted in the Court of *Kings-Bench*, for being abſent without Licenſe from the Parliament. *Cokes* Inſtitutes.

Queen *Elizabeth* Charged and Tryed for Treaſon, and Executed *Mary* Queen of *Scots* her Feudatory, without the Advice of Parliament, and did the like with *Robert* Earl of *Eſſex* her ſpecial Favourite, for in ſuch Caſes of publick and general Dangers, the ſhorteſt delays have not ſeldom proved to be fatally miſchievous.

And howſoever it was in the Caſe of *Stratford*, Archbiſhop of *Canterbury* in the fifteenth year of the Raign of King *Edward* the Third, declared that the Peers *de la terre ne doivent eſtre areſtez ne meſnez en Jugement, Si non en Parlement & par leur Pairres*, yet when there is no Parliament, though by the Law their Perſons may not then alſo be Arreſted at a common perſons Suit, they may by other ways be brought to Judgment in any other Court.

And Charges put in by the Commons in the Houſe of Peers, againſt any of the Peers have been diſſolved with it.

For Sir *Edward Coke* hath declared it to be according to the Law and reaſonable Cuſtoms of *England*, followed by the modern practice, that the giving any Judgment in Parliament doth not make it a Seſſion, and that ſuch Bills as paſſed in either or both Houſes, and had no Royal Aſſent unto them, muſt at the next Aſſembly begin again; for every Seſſion of Parliament is in Law (where any Bill hath gained the Royal Aſſent, or any Record upon a Writ of Error brought in the Houſe of Peers hath been certified) is and hath been accompted to have been a Seſſion. *Cokes* 4 part of the Inſtitutes. Tit. Parliament.

And although ſome of this latter quarrelling Age

have Eſpouſed an Opinion, too much inſiſted upon, that an Impeachment brought by the Houſe of Commons againſt any one makes the ſuppoſed Offence, until it be Tryed, unpardonable.

A Reaſon whereof is undertaken to be given, becauſe that in all Ages it hath been an undoubted Right of the Commons to Impeach before the Lords any Subject for Treaſon or any Crime whatſoever.

And the Reaſon of that Reaſon is (ſuppoſed to be) becauſe great Offences complained of in Parliament, are moſt effectually determined in Parliament.

Wherein they that are of that Opinion may be intreated to take into their more ſerious Conſideration,

That there neither is, nor ever was, any Houſe or Members of Commons in Parliament, before the Impriſonment of King *H.* 3. by a Rebellous part of his Subjects, in the Forty ninth year of his Raign, or any kind of fair or juſt evidence for it.

Factious deſigning and fond conjectures being not amongſt good Patriots, or the Sons of Wiſdom ever accompted to be a ſufficient, or any evidence.

Nor was the Houſe of Lords from its firſt and more ancient original, intituled under their King to a Judicative Power to their Kings, in common or ordinary Affairs, but in *arduis*, and not in all things of that nature but in *quibuſdam*, as the King ſhould propoſe and deſire their advice, concerning the Kingdom and Church in matters of Treaſon or publick concernments, and did underſtand themſelves, and that high and honourable Court, to be ſo much forbid by Law, ancient uſage and cuſtom to intermeddle with petty or ſmall Crimes or Matters, as our Kings have ever ſince the ſixth year of the Raign of King *Edward* the firſt, ordained ſome part of the Honourable Houſe of Peers, to be Receivers and Tryers of Petitions of the Members of the Houſe of Commons themſelves and others, directed to the King to admit what they found could have no Remedy in the ordinary Courts of Juſtice, and reject ſuch as were, properly elſewhere to be determined, with an Indorſement of *non eſt Petitio Parliamenti*.

Rot. parl. 7 E. 1.

Which may well be believed to have taken much of

of its reaſon and ground from a Law made by King *Canutus* who began his Raign about the year of our Lord, 1016. *Nemo de injuriis alterius Regi queratur niſi quidem in Centuria Juſtitiam conſequi & impetrare non poterit.* L:. *Canuti*, 16

For certainly, if it ſhould be otherwiſe, the reaſon and foundation of that higheſt Court would not be as it hath been hitherto, always underſtood to be with a Cogniſance only *de quibuſdam arduis*, matters of a very high nature concerning the King and the Church.

But it muſt have ſilenced all other Courts and Juriſdictions, and have been a continual Parliament, a *Goal-delivery* or an intermedler in matters as low as Court *Leets*, or Baron and County Courts, and a *Pye-Powder Court.*

And the words of any Crime whatſoever do not properly ſignifie great Offences, and that all great Offences do concern the Parliament, is without a Key to unlock the Secret not at all intelligible, when it was never inſtituted or made to be a Court for common or ordinary Criminals.

For the Houſe of Commons were never wont to take more upon them than to be Petitioners and Aſſenters unto ſuch things as the King by the advice of His Lords Spiritual and Temporal ſhould ordain, and obey, and endeavour to perform them.

And an Impeachment of the Houſe of Commons cannot be ſaid to be in the Name or on the behalf of all the People of *England*, for that they never did or can repreſent the one half of them, and if they will be pleaſed to examine the Writs and Commiſſions granted by our Kings for their Election, and the purpoſe of the Peoples Election, of them to be their Repreſentatives, Subſtitutes or Procurators, it will not extend to accuſe Criminals, for that appertained to the King himſelf and His Laws, care of Juſtice and the Publick; for the Common People had their Inferiour Courts and Grand Juries, Aſſiſes and Goal-Deliveries to diſpatch ſuch Affairs without immediately troubling Him or His Parliament, and the tenour and purpoſe of their Commiſſions and Elections to Parliament, is no more than *ad faciendum & conſentiendum iis*, to obey and perform ſuch things as the King, by the advice of His Lords

Lords Spiritual and Temporal, ſhould in Parliament ordain.

For although where the Wife or Children of a Man murdered ſhall bring an Appeal, the King is debarred from giving a Pardon, becauſe by our *Saxon* Laws derived from the Laws of God, they are not to be diſturbed in that ſatisfaction which they ought to have by the loſs or death of the Man murdered.

LI. Inæ, 6.

Yet the publick Juſtice will not be ſatisfied without the party offending be Arraigned and brought to Judgment for it, if the party that hath right to Appeal ſhould ſurceaſe or be bought off, ſo as an Appeal may be brought after or before the King hath Indicted, and an *auter foitz acquit* in the one caſe will not prejudice in the other, and where the Matter of Fact comes to be afterwards fully proved, and the Appeal of a Wife or Child of a Baſtard called *filius populi, quia nullius filius*, where only the King is Heir, cannot vacate or ſuperſede an Indictment of the Kings.

Neither is an Appeal upon a Crime or in criminal Matters in the firſt inſtance to be at all purſued in Parliament, by the Statute made in the Firſt year of the Raign of King *H.* 4. the words whereof are, *Item for many great inconveniences and miſchiefs that often have happened by many Appeals made within the Realm of* England (to the great afflictions and calamites of the Nation, as it afterwards happened by the *Lancaſtrian* Plots and Deſings in that miſchievous Appeal in *Anno* 11. of King *Richard* the Second) *before this time*; It is ordained and ſtabliſhed from henceforth, *That all the Appeals to be made of things done out of the Realm, ſhall be tryed and determined before the Conſtable and Marſhal of* England *for the time being*; *And moreover it is accorded and aſſented, That no Appeals be from henceforth made, or in any wiſe purſued in Parliament in any time to come.*

1 H. 4. cap. 14.

And therefore that allegation that the Houſe of Peers cannot reject the Impeachment of the Commons, becauſe that Suit or Complaint of the Commons can be determined no where elſe, will want a better foundation (an Impeachment of the Houſe of Commons, in the Name of all the People being no other than an Appeal to the King in Parliament.)

And the Suit of ſuch as might be Appellants in another

ther place (being there expreſly prohibited) cannot be ſuppoſed to be the concern or intereſt of all the People deſerving or requiring ſatisfaction, or eſpecially provided for by Law to have ſatisfaction, unleſs it could by any probability or ſoundneſs of Judgment be concluded that all the People of *England* beſides Wives, Children or near Kindred and Relations (the neceſſity of publick Juſtice and deterring Examples) are or ſhould be concerned in ſuch a never to be fancied Appeal of the People. And it will be very hard to prove that one or a few are all the People of *England*, or if they could be ſo imagined, are to be more concerned than the King, who is ſworn to do Juſtice, unleſs they would claim and prove a Soveraignty, and to be ſworn to do Juſtice, which though they had once by a villanous Rebellion attacked, until *Oliver Cromwel* their *Man of Sin*, cheated them of it; for God would never allow them any ſuch power or priviledge, or any Title to the Jeſuits Doctrine which ſome of our Proteſtant Diſſenters, their modern Proſelites, have learned of them, that the King, although he be *ſingulis major*, is *minor univerſis*.

And it is no denial of Juſtice in the Houſe of Peers to deny the receiving of an Impeachment from the Houſe of Commons, when they cannot underſtand any juſt cauſe or reaſon to receive it, and the Records, Rolls, Petitions and Orders of Parliament will inform thoſe that will be at the pains to be rightly and truly directed by them, that Petitions in Parliament have been adjourned modified or denied; and that in the Common or Inferior Courts of Juſtice, Writs and Proceſs may ſometimes be denied, ſuperſeded or altered according to the Rules of Juſtice, or the circumſtances thereof. And our Records can witneſs, that Plaintiffs have petitioned Courts of Juſtice *recedere a brevi & impetrare aliud*

And it cannot be ſaid that the King doth *denegare Juſtitiam*, when he would bind them unto their ancient legal, well experimented forms of ſeeking it in the purſuing their Rights and Remedies, & hinders them in nothing but ſeeking to hurt others and deſtroy themſelves.

For Juſtice no otherwiſe denied ſhould not be termed Arbitrary, until there can be ſome ſolid reaſon, proof or evidence for it,

When it is rather to be believed, that if the Factious

Vulgar Rabble might have their Wills, they would never be content or leave their *fooling* until they may obtain an unbounded liberty of tumbling and toſſing the Government into as many ſeveral Forms and Methods, as there be days in the year, and no ſmaller variety of Religions.

And by the Feudal Laws, which are the only Fundamental Laws of our Government and Engliſh Monarchy, thoſe many parts of the Tenants that held of their Meſne Lords *in Capite*, could not with any ſafety to their Oaths and Eſtates Authoriſe any of their Elected Members of the Houſe of Commons in Parliament, to accuſe or charge any of the Baronage of *England*, in the Houſe of Peers in Parliament, although every Tenant in his Oath of Vaſſalage to his Meſne Lord, doth except his Allegiance to the King, and would be guilty of Miſpriſion of Treaſon, if he ſhould conceal it by the ſpace of twenty and four hours, and if any of the Elected would or ſhould avoid ſuch Miſpriſion of Treaſon in the not performance of his Duty and Oath of Allegiance, it would require a particular Commiſſion to his own Elected Members, and is not to have it done by way of a general Repreſentation when there is not to be diſcerned in the Kings Writ, or in the Sureties, or Manucaptors matters, or things to be performed, or in the Indentures betwixt the Sheriff and the Electors, and Elected any word of Repreſentation, or any thing more than *ad faciendum & conſentiendum iis*, to aſſent and obey, do and perform ſuch things as the King by the Advice of the Lords in Parliament ſhall ordain, and if they would make themſelves to be ſuch Repreſenters, were to have a particular and expreſs Commiſſion, to charge or impeach any one of themſelves or of the Houſe of Peers with Treaſon, or any other high Miſdemeanours.

And they muſt be little converſant with our Records, that have not underſtood that the Commons have many times received juſt denials to their Petitions, and that ſome have not ſeldom wanted the foundations of Reaſon or Juſtice.

That many of their Petitions have adopted the Concerns and Intereſts of others, that were either Strangers unto them, or were the Deſigns of ſome of the grand Nobility who thought them as neceſſary to their purpoſes

poſes as Wind, Tide, and Sails are to the ſpeeding of a Ship into the Port or Landing-places of their Deſigns.

For upon their exhibiting in a Parliament in the 28 year of the Raign of King *Henry* the Sixth, abundance of Articles of High Treaſon, and Miſdemeanours, againſt *William de la Poole*, Duke of *Suffolk* one whereof was that he had ſold the Realm of *England* to the *French* King, who was preparing to invade it. Rot. Parl. 28. H. 6. n. 16, 17.

When they did require the King and Houſe of Lords that the Duke (whom not long before they had recommended to the King to be rewarded for ſpecial ſervices) might be committed Priſoner to the *Tower* of *London*, the Lords and Juſtices upon conſultation, thought it not reaſonable unleſs ſome ſpecial Matter was objected againſt him.

Whereupon the ſaid Duke not putting himſelf upon his Peerage, but with proteſtation of his innocency, only ſubmitting himſelf to the Kings mercy, who acquitting him from the Treaſon and many of the Miſdemeanours, and for ſome of them by the advice of the Lords, only baniſhed him for five years. And that thereupon when the Viſcount *Beaumont* in the behalf of the Lords Spiritual and Temporal required that it might be Inrolled that the Judgment was by the Kings own Rule, & not by their Aſſent, and that neither they nor their Heirs ſhould by this Example be barred of their Peerage.

No Proteſtation appears to have been made by any of the Lords Spiritual and Temporal for or on the behalf of the Commons.

Or by the Commons for themſelves.

So as a different manner of doing Juſtice can neither truly or rationally be ſaid to be an abſolute denial of Juſtice, and was never believed to be ſo by the Predeceſſors of the Houſe of Commons in Parliament in our former Kings Raigns, when ſome hundreds of their Petitions in Parliament have been anſwered. There is a Law already provided, or let the old Law ſtand, or the King will provide a covenable or fitting remedy.

And is not likely if it were, as it is not to be, any Arbitrary Power, or any temptation or inducement thereunto, to produce any Rule or incouragement to the exerciſe of an Arbitrary Power in the Inferiour Courts, when

when there is none ſo weak in his Intellect, but may underſtand that different Courts have ſeveral Boundaries, Methods and Forms of Proceedings, and that the Kings extraordinary great Court and Councel in His Houſe of Peers, although very juſt and unarbitrary in their procedures, is ſo always ready to ſuccour the Complaints of People, as it never willingly makes it ſelf to be the cauſe of it.

And cannot miſrepreſent the Houſe of Peers to the King and his People, in the Caſe of Mr. *Fitz-Harris*, or any others, when that honourable Aſſembly takes ſo much care as it doth to repreſs Arbitrary Power, and doth all it can to protect the whole Nation from it, and many of the Houſe of Commons Impeachments have been diſallowed by the King and his Houſe of Peers in Parliament without any ground or cauſe of fear of Arbitrary Power, which can no where be ſo miſchievouſly placed, as in the *giddy multitude* whoſe Impeachments would be worſe than the *Oſtraciſme* at *Athens*, and ſo often overturn and tire all the wiſe men and good men in the Nation, as there would be none but ſuch as deſerve not to be ſo ſtiled, to manage the Affairs of the Government, ſubordinate to their King and Soveraign.

To all which may be added, if the former Preſidents cited to aſſert the Kings Power of Pardoning as well after an Impeachment made by the Commons in Parliament, as before, and after an Impeachment made by the Commons, and received by the Lords in Parliament, or made both by the Lords and Commons in Parliament, be not not ſufficient that of *Hugh le Deſpenſer*, Son of *Hugh le Deſpenſer*, the younger, a Lord of a great Eſtate, which is thus entred in the Parliament Roll of the fifth year of the Raign of King *Edward* the Third, ought ſurely to ſatisfie, that the Laws and reaſonable Cuſtoms of *England* will warrant it.

Rot Parl. 5. *E.* 3. *n.* 8.

Anno 5 *E.* 3. Sir *Eubule le Strange* and eleven other Mainpriſers, being to bring forth the Body of *Hugh* the Son of *Hugh le Deſpenſer* the younger, ſaith the Record, *A reſpondre au prochein Parlement & de eſter au droit & affaire ce & de liu en conſeil ſoit ordine & meſuerent le Corps le dit* Hugh *devant noſtre Seigneur le Roi Countes Barons & autres Grantz en meſme le Parlement & monſtrent*

ſtrent les L'res Patents du Roi de Pardon al dit Hugh *forisfacturam vite & membrorum ſectam pacis homicidia roborias Felonias & omnes tranſgreſſiones*, &c. Dated 20 *Martii* anno primo Regni ſui *Et priant a n're Seigneur le Roi quil le vouſiſt delivrer de las Mainpriſe & faire audit* Hugh *ſa grace & n're Seigneur le Roi eiant regard a ſes dites L'res & voilant uttroier a la Priere le dit Mons'r Eble & autres Main pernors avant dit & auxint de les Prelatz qui prierent molt eſpecialment pur lui ſi ad comande de ſa grace ſa delivrance. Et voet que ſes Menpernors avant ditz & cheſcun d' eux ſoient diſchargez de leur Mainpriſe & auxint & le dit* Hugh *ſoit quit & delivrers de Priſone & de garde yſſint & ſi ho'me trove cauſe devors lui autre & neſt uncore trove quil eſtoiſe au droit.*

And the *Engliſh* Tranſlator, or Abridger of the Parliament Records, hath obſerved that the old uſage was, that when any Perſon being in the Kings diſpleaſure, was thereof acquitted by Tryal or Pardon, yet notwithſtanding he was to put in twelve of his Peers to be his Sureties for his good Behaviour at the Kings pleaſure.

And may be accompanied by the Caſe of *Richard* Earl of *Arundel* in the 22 year of the Raign of King *Richard* the Second, being Appealed by the Lords Appellant, and they requiring the King, that ſuch Perſons Appealed, that were under Arreſt, might come to their Tryal, it was commanded to *Ralph*, Lord *Nevil*, Conſtable of the *Tower* of *London* to bring forth the ſaid *Richard* Earl of *Arundel*, then in his cuſtody, whom the ſaid Conſtable brought into the Parliament, at which time the Lords Appellants came alſo in their proper Perſons. To the which Earl the Duke of *Lancaſter* (who was then hatching the Treaſon which afterwards in Storms of State and Blood came to effect againſt the King) by the Kings Coommandment and Aſſent of the Lords declared the whole circumſtances ; after the reading and declaring whereof the Earl of *Arundel*, who in *Anno* 11 of that Kings Raign had been one of the Appellants, together with *Henry* Earl of *Derby* Son of the ſaid Duke of *Lancaſter*, and afterwards the uſurping King *Henry* the Fourth againſt *Robert de Vere*, Duke of *Ireland* and Earl of *Oxford*, and ſome other Miniſters of State, under King *Richard* the Second, alledged that he had one Pardon granted in the Eleventh year of the Raign of King

22 R. 2. In the Abridgment of the Parliament Records in Engliſh ſaid to be done by Sir *Robert Cotton*.

Richard the Second, and another Pardon granted but ſix years before that preſent time. And prays that they might be allowed.

To which the Duke anſwered, that for as much as they were unlawfully made, the preſent Parliament had revoked them.

And the ſaid Earl therefore was willed to ſay further for himſelf at his peril; whereupon Sir *Walter Clopton*, Chief Juſtice, by the Kings Commandment declared to the ſaid Earl, that if he ſaid no other thing, the Law would adjudge him guilty of all the Actions againſt him.

The which Earl notwithſtanding would ſay no other thing, but required allowance of his Pardons.

And thereupon the Lords Appellant in their proper Perſons, deſired that Judgment might be given againſt the ſaid Earl as Convict of the Treaſon aforeſaid.

Whereupon the Duke of *Lancaſter*, by the Aſſent of the King, Biſhops and Lords, adjudged the ſaid Earl to be Convict of all the Articles aforeſaid, and thereby a Traytor to the King and Realm, and that he ſhould be hanged, drawn and quartered, and forfeit all his Lands in Fee or Fee-tail, as he had the nineteenth day of *September*, in the tenth year of the Kings Raign, together with all his Goods and Chattels. But for that the ſaid Earl was come of noble Blood and Houſe, the King pardoned the hanging, drawing and quartering, and granted that he ſhould be beheaded; which was done accordingly.

Rot. Parl. 1 H. 4. n. 109. III.

But *Anno* 1 *Hen.* 4. the Commons do pray the reverſal of that Judgment given againſt him, and reſtoration of *Thomas* the Son and Heir of the ſaid *Richard* Earl of *Arundel*.

Unto which the King anſwered, he hath ſhewed favour to *Thomas* now Earl, and to others, as doth appear.

The Commons do notwithſtanding pray, that the Records touching the Inheritance of the ſaid *Richard* Earl of *Arundel*, late imbezelled, may be ſearched for and reſtored.

Unto which was anſwered, *the King willeth.*

And their noble Predeceſſors in that Honourable Houſe

Houſe of Peers, the Lords Spiritual and Temporal in Parliament long before that, *videlicet*, in the fifth year of the Raign of King *Edward* the Third, made no ſcruple or *moat* point or queſtion in Law, whether the power of pardoning was valid and ſolely in the King after an Impeachment of the Lords in Parliament, when in the Caſe of *Edmond Mortimer*, the Son of *Roger Mortimer* Earl of *March*, a Peer of great Nobility and Eſtate, the Prelats, Counts, Barons, *& autres gentz du Parlement*, did in full Parliament, as the Record it ſelf will evidence, Petition the King to reſtore the ſaid *Edmond Mortimer* to his Blood and Eſtate, which were to remain unto him after the death of his ſaid Father, to whom it was anſwered by the King in theſe words; *Et ſur ce noſtre Seigneur le Roi charge a les ditz Prelats, Countes & Barons en leur foies & ligeance queux ils lui devoient & de puis ce que le Piere noſtre Seigneur le Roi que ore eſt eſtoit murdre per le dit Counte de la* Marche *& perſon procurement a ce quil avoit meſmes comdevant ſa mort que eux eant regarda le Roi en tiel cas lui conſilaſſent ce quil devoit faire de reſon audit Eſmon filz le dit Counte les queux Prelats, Countes, Barons & autres avys & trete entre eux reſpondirent a noſtre Seigneur le Roi de Common aſſent que en regard a ſi horrible fait comme de murdre de terre & leur Seigneur lige quen faiſt unques ne avoient devant en leur temps ne nes devant venir en le eyde de dieu quils ne ſcavoient uncore Juger ne conſeiller ceque ſeroit affaire en tiel cas. Et ſur ce prierent a noſtre Seigneur le Roi quils poierent ent aver aviſement tanque au proche in Parlement la quelle priere le Roi ottroia & ſur ce prierent outre que noſtre Siegneur le Roi feiſt au dit Eſmon ſa bone grace a quoi il reſpond quil lui voloit faire mes cella grace vendroit de lui meſmes.* Rot. Parl. 5 E. 3. n. 17.

Sir *Thomas de Berkeley* (who Sir *William Dugdale* in his Book of the Baronage of *England*, found and believes to have been a Baron) being called to account by the King, for the murder of his Father King *Edward* the Second, to whoſe cuſtody at his Caſtle of *Barkeley*, he was committed, not claiming his Peerage, but pleading that he was at the ſame time ſick almoſt to death at *Bradely*, ſome miles diſtant, and had committed the cuſtody and care of the King unto *Thomas de Gourney & William de Ocle ad eum ſalvo cuſtodiendi*, and was not guilty of the murder of the King or any ways aſſenting Rot. Parl. 4. E. 3. n. 16.

aſſenting thereunto *Et de illo poſuit ſe ſuper Patriam*, had a Jury of twelve Knights ſworn and impannelled in Parliament who acquitted him thereof, but finding that he had committed the cuſtody of the King to the aforeſaid *Thomas de Gournay & William de Ocle*, and that the King *extitit muderatus*, a further day was given to the ſaid Sir *Thomas de Berkeley de audiendo Judicio ſuo in prox. Parliamento*, and he was in the interim committed to the cuſtody of *Ralph de Nevil* Steward of the Kings Houſhold.

Rot Parl. 5. E. 3. At which next Parliament *Prierent les Prelatz, Countes & Barons a noſtre Seigneur le Roi* on the behalf of the ſaid Sir *Thomas de Berkeley*, that he would free him of his Bayl or Mainprize, whereupon the King charging the ſaid Prelats, Counts and Barons to give him their advice therein: *Le quel priere fuſt ottroia & puis granta noſtre Seigneur le Roi de rechef a leur requeſte que le dit Mons'r* Thomas *& ſes Mainpernors fuſſeient delivres & diſcharges de lure mainpriſe & ſi eſtoit Jour donne a dit* Thomas *de eſtre en prochein Parlement*, which proved to be a clear Diſmiſſion, for no more afterwards appeareth of that matter.

Neither after a fierce Impeachment in the ſaid Parliament of 21 *R.* 2. againſt *Thomas Arundel* Archbiſhop of *Canterbury* and Chancellor of *England*, of High Treaſon, upon which he was by that injured Prince condemned and baniſhed, when as the Record ſaith, *Les dits Countz prierent au Roi ordenir tiel Jugement vers le dit Erceveſque come le cas demande & le Roi ſur ceo Recorda en le dit Parlement que le dit Erceveſque avoit eſte devant lui en preſence de certeines Seigneurs & confeſſor que en la uſe de la dite Commiſſion il ſey meſpriſe & lui miſt en la grace du Roi ſurquoi*, the Judgment was given againſt the ſaid *Archbiſhop*, that he ſhould be baniſhed and forfeit all his Lands, Goods and Eſtate, when in the firſt year of the Raign of the uſurping King *H.* 4. that Archbiſhop not tarrying long in Exile, the minds of the Commons became ſo ſetled on the prevailing ſide, that there was ſo ſmall or no oppoſition made by them againſt him, as the Duke of *York* and Earl of *Northumberland*, and others of the Blood of the ſaid Archbiſhop of *Canterbury* did in Parliament pray the King that the *ſaid Archbiſhop might have his recovery againſt* Roger Walden, *for ſundry Waſts and*

Spoils

Spoils done by him in the Lands of the ſaid Archbiſhoprick, which the *King granted, and thanked them for their motion.*

The Biſhop of *Exeter* Chancellor of *England* at the aſſembling of the Parliament, taking his Text out of the Prophecy of *Ezekiel*, *Rexerit unus omnibus*, alledging the power that ought to be in Soveraign Kings and Princes whereby to govern, and the Obedience in Subjects to obey, and that all alienations of his Kingly Priviledges and Prerogatives were reaſſumable and to be Repealed by his Coronation-Oath, *Pour quoi le Roi ad fut aſſembler le Eſtatz de Parlement a ceſt faire pour eſtre enformer ſi aſcun droitz de ſa Corone ſoient ſuſtretz ou amemuſer a fin que par leur bon advis & diſcretion tiel remedie puiſſe eſtre mis que le Roi puiſſe eſteer en ſa libertie ou poir Comme ſes Progenitors ont eſte devant lui & duiſſent de droit non obſtante aſcun ordinance au contraire & ainſi le Roi as Tener, Et les governera*, whereupon the Commons made their Proteſtation, and prayed the King that it might be Inrolled, that it *was not their* intente ou volunte *to Impeach or Accuſe any Perſon in that Parliament* ſans congie du Roi. And thereupon the Chancellor, by the Kings command, likewiſe declared, That *Noſtre Seigneur le Roi conſiderant coment pluſieurs hautes offenſes & meſfaits ont eſtre faitz par le People de ſon Roialme en contre leur ligeance & l' Eſtat noſtre Seigneur le Roi & la loie de la terre devant ces heures dont ſon People eſtiet en grant perill & danger de leie & leur corps & biens & voullant ſur ce de ſa royalle benignite monſtre & fair grace a ſon dit People a fyn quilz ayent le greindre corage & volonte de bien faire & de leure mieux porter devors le Roi entemps avenir ſi voet & grante de faire & eaſe & quiete & ſalvation de ſon dit People une generalle Pardon a ces liges forſpries certaines pointz limitez par le ſamant la ſuite al partie forſpris cyn quont perſones queux plaira au Roi nomer & tour ceux qui ſerront Empeacher en ce preſent Parlement & dit auſtre que le dit Roi voet que plein droit & Juſtice ſoyent faitz a Chaſcun de ſes liges qui en voilent complandre en ceſt Parlement & ad ordiner & aſſigner Receivers & Triers des Petitions en ceſt Parlement.*

Rot. parl. 21. R. 2.

And did in puſuance thereof in full Parliament excuſe, the Duke of *York*, the Biſhop of *Worcheſter*, Sir *Richard le Scroop* then living, *William* late Archbiſhop

of *Canterbury*, *Alexander* late Archbiſhop of *York*, *Thomas* late Biſhop of *Exeter*, and *Michael* late Abbot of *Walton* then being dead, of the Execution and intent of the Commiſſion made in the Tenth year of his Raign, as being aſſured of their Loyalty, and therefore by Parliament reſtored them to their good Name.

And it is more than a little probable that the Prelates, Counts and Barons in that Honourable Houſe of Peers in Parliament, did well underſtand that the King was a fit, and the only perſon to Petition unto for that Pardon, Diſcharge or Diſmiſſion amounting to a Pardon, and did not think it to be either legal or rational to Petition the People and their fellow Subjects, upon a ſuppoſed incredible and inviſible Soveraignty, no man knows when or how radicated and inherent in them.

Eſther, ca. 1, 3, 5, 8. The Decree of the great *Ahaſhuerus* that Raigned from *India* to *Ethiopia* over one hundred twenty ſeven Provinces, whoſe Laws were holden to be irrevocable, was reverſed for the preſervation of the *Jewiſh* Nation upon the Petition of Queen *Eſther*, and his holding *out his Golden Scepter unto her*.

The Inquiet People of *Athens* now come enough under a *Mahometan* Slavery, would not again wiſh for *Draco*'s bloody repealed Laws, without the mercy of a Prince to moderate them according to the Rules of a prudent and diſcerning mercy.

1 *Reg.* 3. Which made the Goodneſs and Wiſdom of *Solomon*, ſo extraordinarily eminent in his determination in the Caſe betwixt the two Mothers claiming one Child.

Neither can a People ever be, or ſo much as think themſelves to be in any condition of happineſs when their Laws ſhall be inflexible and hard hearted, and there ſhall be no Superior Power to allay the rigidneſs or ſeverity of them.

No Cities of Refuge or *Aſylums* to fly unto, upon occaſion of Misfortunes, which God himſelf ordained for his Choſen People of *Iſrael*.

And therefore when *Juries* may erre or play the Knaves, be Corrupt, Malicious or Perjured, and Judges miſtaken, our Judges have in their doubtings ſtayed the Execution until they could attend the King for his determination.

Where-

Whereupon his Pardons did not ſeldom enſue, or a long Leaſe for Life was granted to the penitent Offender, it being not amiſs ſaid by our old *Bracton*, That *Tutius eſt reddere rationem miſericordiæ quam Judicii*, the *Saxons* in doubtful Caſes appealed to God for diſcovery, by *Kemp* or *Camp*, Fight, Fire or Water *Ordeal*, which being now aboliſhed and out of uſe, requires a greater neceſſity of the right uſe of pardoning; for Sir *Edward Coke* ſaith, *Lex Angliæ eſt Lex miſericordiæ*, like the Laws of Scripture wherein Mercy is not, oppoſite unto Juſtice but a part of it, as 1 *John* 19. *Pſalm* 71. 2. *Jer.* 18. 7, 8, 9, 10. *Ezek.* 33. 13, 14. and it hath not been ill ſaid that *Juſtitia ſemper mitiorem ſequitur partem*, for it is known that a Judge ſince his Majeſties happy Reſtoration, who, were he now living, would wiſh he had made a greater pauſe than he did in a Caſe near *Brodway-Hills*, in the County of *Worceſter* or *Gloceſter*, where a Mother and a Son were, upon a ſeeming full evidence, Hanged for the Murther of a Father, who afterwards when it was too late, appeared to be living.

Bracton.

Cokes Inſtit. 2. 315.

And Poſterity by the remembrance of Matters and Tranſactions in Times paſt, may bewail the Fate of ſome Miniſters of State, who have been ruined by being expoſed to the Fury of the People, (who did not know how or for what they did accuſe them) and left to the never to be found Piety or Wiſdom of a Giddy, Incenſed and Inconſiderate accuſing Multitude, and Hurrying on the reaſonleſs or little Wit of one another.

And conſider how neceſſary it had been for the pious good Duke of *Somerſet*, in the Raign of King *Edward* the Sixth to have had his Pardon, when at his Tryal neither his Judges, nor the prevalency of the faction that would have rather his Room than his Company, nor himſelf could remember to put him in mind to demand the benefit of his Clergy.

Or how far it would have gone towards the prevention of that ever to be wailed National Blood-ſhedding miſeries and devaſtations, which followed the Murthers of the Earl of *Strafford*, and Archbiſhop *Laud*, if their Innocencies had but demanded and made uſe of his late Majeſties Pardon.

Or what reaſon can be found why a Pardon after

an Impeachment of a particular Perſon by an Houſe of Commons in Parliament, or an Houſe of Peers joyning or conſenting therewith, ſhould not be as valid and effectual in Law, Reaſon and good Conſcience.

As the very many General Pardons and Acts of *Oblivion*, which have been granted by our Kings and Princes to their People for Extortions of Sheriffs, Bayliffs, *&c.* together with many other Miſdemeanours, Grievances and Offences, often complained of in many of our Parliaments, as the Records thereof will witneſs, whereby they have acquitted and given away as much of their own juſt Rights and Regal Revenues to their Subjects, then the Aids and Subſidies, which they have Contributed towards their Preſervation, and in theirs their own, and have been more eſpecially by our late Soveraign, who may be truly ſtiled *le deboniere* and to have been

Piger ad pœnas ad præmia velox.

Tenenda non Tollenda per Fabian Philipps.

And whilſt we ſit by the Waters of *Babylon*, and ſadly bewail the loſs and caſting away of our Tenures *in Capite* the Chariots and Horſmen, and the glory and ſtrength of our *Iſrael*, for a miſcalled Recompence by an Exciſe before our Presbyterian, and *Common Ill* rather than *Commonwealth* Rebels had to maintain their wicked deſigns, introduced that *Dutch Devil* called the Exciſe upon our half boiled, and half malted Ale and Beer, making our drink to be as the Waters of *Marah*, and in the opinion of our Doctors of Phyſick, an Eſpecial Friend to our now much complained of ſeldom heard of before that wicked Rebellion, the *Scurvy* and one of the moſt grievous and general Burdens, that could be laid upon the Common ſort of labouring poor people, and thoſe Tenures *in Capite* were ſo Eſſential and high a part of our Monarchick Government, as all the Judges of *England* did in the Raign of King *James* the Firſt agree and certify that they were ſo inſeparable from the Crown of *England*, as they could not be altered or taken from it by an Act of Parliament, and that learned and pacifique Prince having been much tempted thereunto in his great want of Money, by an offer of 200000 *l. per annum*, which was more than the whole profits of the Exciſe upon Ale, Beer, Cider, Coffee, *&c.* All the *Salaries*, *Cheats*, *Charges* and *Allowances*,

Miſcalled Recompence *per tandem.*

Ligeancia Lugens per eundem.

Allowances, *Filchings*, *Lurches* and *False Accompts* deducted, could or did amount unto, that kind of Revenue being since his late Majesties death to be no more than a moyety thereof; And these Tenures *in Capite* were so inherent in the Crown of *England*, as divers of the learned Judges of *England* in their Arguments in the *Exchequer-Chamber* in the Raign of King *Charles* the Martyr made no Scruple to assert that the Tenures *in Capite* were of so high a nature, that they could not be taken away by any Act of Parliament.

And to take away from our Kings and Princes, the love and honour of the people, as well as they had done the Tenures *in Capite*, the Nerves and Sinews of our Monarchick Government, it was the especial work and design of those Enemies of our former happiness to take away also the Honour of his Crown and Hospitality, and could not think they had done all their work until they had thrown the Pourveyance into the bargain of the *Tenures in Capite*, which nothing but the value of the Kingdom it self could make an Equivalent recompence or purchase, and the unhappy contrivers thereof might have put a better value upon it, when in *Michaelmas Term* in the third year of the Raign of King *James* the first, all the Judges of *England* did certify that it *was a Prærogative of the King at the Common Law, and that all the Statutes which have been made to correct abuses in the Purveyances took not away the Purveyances, but confirmed them. Et qui tollit Iniquitatem firmat proprietatem & confirmat usum.*

Mr. *Francis Moores* Reports, *Richards* Case. 764.

And all those mischiefs done by one that unhappily might have taken more heed of an Assembly, which some flatteringly called the *Collected Wisdom of the Nation*, when he could not well esteem them so to be, when by Fudling, Drinking, Bribing, and all the base Cheats imaginable they had procured themselves to be made Members of that much miscalled Parliament. And yet after his late Majesties miraculous restoration being advanced unto great preferments, and at the last a *Grand Minister* of State, did so think well of his own doings, as he publickly at the Table of Sir *Harbottle Grimston* Master of the Rolls in *Chancery-Lane* in the hearing of many worthy persons, Sir *Nicholas Strode*, *John Hern* Esquire, and others, one of them yet living

ready to teſtify it, what a moſt eſpecial Service he had done for the King and Kingdom when he was a Member in Parliament, and known to be the Kings Solicitor General by a motion *without any the Kings privity or direction* to diſſolve and deſtroy the *Tenures in Capite*, and accept a Recompence for them, which Serjeant *Glyn* a former Grand Rebel to his Majeſty, and after his Reſtauration crept in as the moſt of them did, and got to be Members of Parliament, was ready to aſſiſt by the offer of a Recompence by an Exciſe upon Ale, Beer, Sider, and Coffee, a Limb of that *Dutch Devil* which they had made uſe of in their Rebellion and time of his late Majeſties, and now Majeſties perſecution. At which the Company ſtanding amazed, and Sir *Nicholas Strode* ſaid, that *he ſhould never have fought for* the late *bleſſed Martyr, or come to his ſetting up his Standard* at *Nottingham* if he could have foreſeen it, the moſt of the Nation at that time, and almoſt ever ſince, verily believing that it had been the folly and evil doing of Sir *Edward Hyde* the late Lord *Chancellor*, afterwards Earl of *Clarendon*, and therefore was ſufficiently railed upon, Curſed and Banned for it, and yet he was ſo Faultleſs and Innocent therein, as it can be witneſſed by the now Earl of *Clarendon* his Son Lord Lieutenant of *Ireland* and Lord privy Seal in the Kingdom of *England*, that this overbold & preſumptuous motion of a Servant and Councel at Law of that unfortunate weather-beaten Prince, not being at all informed how or by whom the project came to be firſt hatched or moved, his late Majeſty calling together his privy Councel, and adviſing upon that moſt unhappy propoſition, wherein the Rebel Parliament in *February* 1647. had made ſome Vote, Act or Ordinance againſt the aforeſaid Tenures under the notion of the Court of *Wards*, being but two years before his Royal Fathers Murther, and *Oliver Cromwel* had made ſome Act of his Worſhips miſcalled Parliament ſome few years after, as it behoved for the deſtruction of thoſe Tenures *in Capite*, when he intended as much as he could to take away the Kingſhip and Monarchy, until he could make himſelf fit to govern a fooliſh, beſotted, rebellious people, they having before not at all made any mention or requeſt to have the ſaid Court of *Wards* put down, or the *Tenures in Capite* by their High and mighty 19 Propoſitions,

poſitions, nor were any complaints of grievances made thereby, nor in all our Parliament Records or Journals or Hiſtorians ſince or before the Raigns of King *Edward the Confeſſor*, and *William* the *Conqueror*, doth there appear to have been any Petitions in Parliament againſt them, neither in that as it were intended depoſing *Remonſtrance* of the 15th of *December* 1641. wherein nothing was omitted that might injure or calumniate *per fas aut nefas* the Kings Authority or Government, there appears to have been nothing againſt either the Tenures *in Capite* or Court *of Wards*. And it can be proved that the Royal Martyr during his impriſonment in the Iſle of *Wight*, had deſigned that if ever he came again to his Rights, he would upon all his Crown or Chequer Leaſes reſerve ſome military Services, notwithſtanding all which his late Majeſties great want of preſent Money, and ſome ſetled Revenue, perſwaded him to hearken more than otherwiſe his own great Judgment would have done. The Earl of *Radnor* was much againſt their diſſolution, alledging that the conſtitution it ſelf was good, and was not in it ſelf to be caſt away by any Male-adminiſtration: Sir *Geffery Palmer* was very much for the preſervation of the Tenures, and ſo were many other, and the Lord Chancellor *Clarendon* very much, and ſo greatly, as he called to the ſaid Sollicitor General, and ſaid, will you alſo put down the Pourveyances? ſaying with ſome paſſion, *by God* we ſeem to be againſt the late Commonwealth, and yet are acting for it.

And his late Majeſty was ſo unwillingly drawn to be in Love with that ever to be deplored Parliament contrivance to decapitate the Monarchy, and not only that, but *Ireland*, and render all the Inferiour part thereof, to be in a paralitique or dead palſical over-benummed in its Members, as before that Act paſſed, he ſent for one Mr. *Darnel*, an ancient and experienced Clerk and Attorney in the Court of Wards and Liveries, to propoſe ſome expedient for the Regulation of any thing that had been Acted amiſs in that Court, who bringing it unto him in writing, he ſo much approved thereof, as he took him by the hand, and gave him great thanks, but the fatality of that lamentable attempted alteration of our ancient Monarchy, into an Anarchy or Poliarchy, with, by their good will, a

nudum

nudum nomen of a metamorphoſed Monarchy, and that unhappy as aforeſaid propoſer of it, cannot if he were now amongſt the living but remember that after I had Written a Book to Juſtify the Tenures *in Capite* entituled *Tenenda non Tollenda*, dedicated to the Lord Chancellor, but delivered it unto him before the Act had paſſed againſt them, and not at all imagining that Mr. *Solicitor* General had been ſo over-active in deſtroying them, deſired him that he would be a means to procure the military Services to be reſerved, was anſwered, it could not be done, and yet notwithſtanding about a year or two after attending him about ſome other affairs, he was pleaſed to ſay unto me, Mr *Philipps*, do you ever think to write in the *Tenures in Capite* again? unto which I anſwering, no Sir, but I think the Child that is yet unborn may rue it, unto which he replyed, ſo do I alſo think, or I am of that opinion, which ſhews, that though he did it without the Kings knowledge, and as a ſpecial Service to be done unto him, did him that great miſchief he never intended, and was ſorry for it afterwards.

But when it was the wiſdom of former ages to know what to contend for before they quarrelled, therefore it may be neceſſary to let the Cavalling party underſtand that there are multitudes of Priviledges which are not Priviledges of Parliament, but truly and properly are the Priviledges and Properties in their own Eſtates, and they may be kinder to themſelves if they will but take a view of ſuch Priviledges and Properties, as they can call their own.

§. 28.

§ 28.

Of the Protection and Priviledge granted unto the Members of the Houſe of Commons in Parliament by our Soveraign Kings and Princes, during their Attendance and Employments in their great Councels of Parliament according to the Tenor and Purport of their Commiſſions.

COuld be granted by none but by our Kings the Original either by grant or permiſſion of all Priviledges and Liberties enjoyed by their Subjects under or in order to their Monarchick Regal Government, a view or Proſpect whereof well warranted by our Laws Records, and Annals, and from time to time contemporary Hiſtorians, and experimented rules of right reaſon may ſerve to ſettle and rectifie the ill founded and ſuperſtructed fancies and opinions rather than Judgments, built thereupon, which like ſome *ignis fatuus*, have led many otherwiſe well meaning people, that heartily hated Rebellion, and Perjuries, into the Bogs, and Snares of thoſe very great and pernicious ſins againſt God, and his Vicegerents their Neighbours and fellow Subjects when their ſo ever much miſtaken priviledges of Parliament will appear to be no more but temporary, and of no long duration but from one uſually ſhort Parliament to another when they were petitioned for before they were granted.

The *Finis*, end or motives whereof was primarily and principally the Kings important occaſions of ſummoning a Parliament, and cauſing them to come thither, and he only was the *Efficient cauſe*, or *cauſa ſine qua non*, thereof to protect and keep them from diſturbances, whilſt they were buſy and employed in his ſervice, either in their coming, tarrying or returning.

And therefore the Members of the Houſe of Commons, were ſo ſenſible and willing to have thoſe priviledges to be granted unto them, as might be neceſſary for the affairs wherewith he had intruſted them, as they not deeming any other to be requiſite or belonging unto them.

And not thinking any more or other Priviledges to be requiſite for the publick good, were by the Kings Licenſe for better Orderand methods ſake, to Elect one of their Members to be their Speaker, and preſent him unto the King, who very ſeldom refuſed him, notwithſtanding his uſual diſabling himſelf by modeſt excuſes after whoſe allowance he did in the preſence of many of his fellow Members make it his and the Houſe of Commons ſpecial requeſt at that time before, and ever ſince believed to be pertinent and neceſſary the priviledge of freedom of Acceſs to his Majeſtys perſon,and freedom from Arreſt and Impriſonment for themſelves;and their mœnial Servants whilſt they according to their duties attended his commands *in veniendo, morando, & redeundo*, and a third for himſelf ſince the miſcarriage of an over buſy Speaker in the Raign of King *Henry* the fourth to be pardoned for his ignorance *in caſe he ſhould ſpeak any thing ignorantly to the diſpleaſure of his Majeſty*, which ought to be kept within their proper limits and bounds, and not let looſe to all or any the Extravagant interpretations of the Roving fancies, either of the Vulgar or Factious, neither making additions thereunto, or Supernumeraries, or as many as they pleaſe, by a new Art of mutiplication, Alchymy, or Tranſmutation, or as if they had purchaſed the often beggaring and deluding ſo called *Philoſophers Stone*(properly enough ſo ſtiled from making their Sectaries to be as poor as *Philoſophers* uſe to be) by tranſmuting all that it toucheth into it ſelf, or ſomething like it, and rendring the aforeſaid two or three priviledges to be 100, or 1000, 10000,or 20000: *cum multis aliis*, there having been an abundance of various ſort of priviledges (not Priviledges of Parliament)as well Civil as Eccleſiaſtick even to an Exceſs granted by the Indulgence of our Kings and Princes in the great and various concerns of their particular Affairs and Eſtates as far as the extent of their fancies could carry them, and therein grew to be ſomething confident, if they could procure ſome ſucceſs to Warrant it, they might in good time by the help of their never-tyring Cavilling Tricks and Endeavours, accompliſh as much as ever the *Colledge de beaux Eſprits* at *Paris*, or the Experiment-mongers of our *Greſham* Colledge did hope to do by the tranſmutation of young Blood into Old

Old Bloodleſs Carcaſſes which might have done no ſmall miſchief to our circulating Doctors of Phyſick.

And therefore certainly it would be more available, before we hunt our ſelves out of our Loyalty, Chriſtianity, Religion, Wits and Eſtates, to enquire into the natural and true meaning of the word Priviledge of Parliament, and Proprieties, and how far it can carry us into thoſe very different *Proprieties*, and that which we may truly and not fictitiouſly call our own.

Wherein the Civil Law that univerſal Method of the reaſon of the World in the diffinition and true meaning and intent of priviledges concludeth, that *privilegium neque ſtricte neque nimis large interpretari debet ne gravem aliis Jacturam adfert, Quando igitur ſine quavis gravamine alterius non poſſunt concedi Privilegia proximum eſt ut ceſſant cum nimium lædant.* *F. de Admin. Cod. de priv. impoſſ.*

Et Privilegium eſt quod contra Communem Civilium ordinatio tenorem propter aliquam naturalis æquitatis rationem certa conſtituentium authoritate introductum eſt unde apparet, ſaith *Cicero, quod Privilegium contra Jus naturæ vel utilitatem publicam non magis ſunt Privilegia quam Tirannis.* *Cit. de Legibus diffirent.*

Privilegia ultra ſuam propriam naturam non extendi debet, nec ad ea quæ neutiquam prima ſua origine ſunt directa aliquin etiam ad incognita contra intentionem dantis extendi poſſent quod in Jure abſurdum eſt. *Reinoldus Curicke de privilegiis, ca. 3, 45. & 46. ca. 4, 52. & 53.*

Expreſſa Privilegia a re ex Jure proprio Majeſtatis & ſuperioritatis proprie privilegiorum conceſſio non tantum arguit ſuperioritatem dantis, & inducit ſubjectionis ſpeciem in perſona impetrantis & quidem.

Ita ut privilegium non ſubdito conceſſum Regulariter in contractum tranſeat, ſed & ſoli Principi ſummo & qui regalem dignitatem & poteſtatem exercendi Jura principis quoad Subditos ſuos in ſuo territorio conceſſit, competit per L. Vinc. (de his qui a Princip. Vac. accep. lib. 10.)

Privilegia Jus ſuperioritatis ſtricte & quidem Ita interpretari convenit ut ſemper intelligantur ſalvo Jure ſuperioritatis conceſſa Privilegii, enim Interpretatio non debet verti contra Autorem; Ita quod per privilegia ſubditi deſinant eſſe ſubditi, ſed quod tanto magis eſſe debent ſubditi cum Privilegia proprie non niſi ſubditis dantur, & quis dubitat eum qui Privilegium libertatis accipit leges alterius agnoſcere

cum

cum privilegium non sit nisi exemptis a Jure Communi L qui singulare F. de L.

And very often confirmed Priviledges that have been incroached or usurped may justly come within the compass of that Rule also of the Civil Law much allowed and made use of in our Common Law. *Quod ab initio non valet tractu temporis non convalescit. Confirmatio ex certa Scientia quamvis det robur, non tamen extenditur ad id quod in eo non includebatur secundum Bald. sing. in l. 3. in fin. C.*

R. de Cwicke de privilegiis.

Interpretatio privilegiorum, ita fiat necesse est nec torqueatur, sed facto deserviat neque factum variare oportet ut Privilegio respondeat.

Privilegium debet esse observatum et clarum, Michael Ant. Frances, de veritigati æquivocum nihil operatur p. 564. in privilegiis mens concedentis attenditur cap. 51 n. 223. privilegium transit in contractum ex causa onerosa, fieri dicitur nec revocatur cap. 30. et 294 et 304. p. 570. ex privilegiatis duobus quis sit præferendis cap 10. p. 193 magis privilegiatus præcellere debet ratione dignitatis, privilegium non extendit se ad ea quæ de facili concedi non solent; qualis est derogatio concilii, cap. 28. n. 327. non datur res quæ not sit cap. 28. & 414 & 415. p. 514. concessum ex causa ea cessante revocatur etiam si concedens ex alia causa ea concessisset, cap. 28. n. 497. p. 510. Revocatur nova causa superveniente, cap. 28. n. 428. p 522. Non datur nisi aliquid particular. concedat, cap. 13 n. 26. p. 556. Privilegium & Exemptio lædunt Jus Commune cap. 30. n. 17, p. 554. Privilegium ratione scandali revocatur, cap. 30. n. 299. p. 570.

Dr. *Brady* in his History of *England*, from the first Entry of the *Romans* until the Raign of King *Henry* the third and *Lambart* L. L. *Edwardi Confessor.* 12.

And there were Priviledges that were more stable, yet no Parliament Priviledges, such as St *Pauls* was of being a Freeman and Citizen of *Rome*, bought, as he said, with a great price, and some *Coloniæ & Mancipiæ* had the same Laws and Priviledges, which *Rome* had, the four great High Ways made by the *Romans* in *Brittain*, to keep their Souldiers from Idleness, as *Watlinstreet*, &c. had great Immunities and Priviledges, as to have the persons and goods of such as travailed or dwelt therein freed from Arrest or Distress.

Et privilegia quæ utilitati publicæ sunt damnosa strictam interpretationem requirunt quia generaliter quicquid contra jus vel utilitatem publicam in quolibet negotio prefertur non valet

valet l. Jubeamus 10. *C. de ſ ſ. Eccleſiæ* 4.

The Decree of the great King *Ahaſhuerus* that raigned from *Jndia* to *Ethiopia* over 127 Provinces, his Laws being holden to be irrevocable, were as unto ſome part of them reverſed for the preſervation of the Jewiſh Nation upon the petition of Queen *Eſther*, and his holding out his golden Scepter to her. *Eſther* cap. 1. 3. 5. 8.

And the Houſe of Commons themſelves did in a Parliament in the 21 year of the raign of King *Richard* the Second certainly ſo underſtand and believe it, when they recommended to poſterity their dutiful proteſtation to their King and Soveraign,and requeſt to have it ſpecially Inrolled in theſe words, *Item les ditz Comes fierent proteſtation devant le Roi en plein Parlement & ils vurroient monſtrer & declarer meſme le Jour en plein Parlement certeine matieres & Articles deus queux ils fierent alors aviſer & entre eux accorder nient majus il fuſt & eſt leur entent & volunte percongie de noſtre Seigneur le Roy de accuſer & empeſther perſone ou perſones a tantes de foiz come leur ſembleroit affaire durant le temps de ceſt preſent Parlement & prierent au Roy & lui pleiroit accepter leur dite proteſtation & quil ſoit entrer en rolle de Parlement de record la quele choſe noſtre Seigneur le Roi leur ad ottroie & commanda a deſtre fait*, and did think it not to be unbecoming their duty to require licenſe of the King to charge or accuſe any perſon or perſons in that tempeſtuous Parliament nor did beleive that their accuſations or impeachments ſhould or ought to be ſo fatally mortal when in the firſt year of the Raign of King *Henry* the 4th, by a patched contrivance of the Parliament in the Raign of King *H.* 4 the ſame Commons in Parliament deſired that the Judgment given againſt the ſaid Earl of *Arundel*, whoſe Pardon but a little before had been rejected, might be reverſed, and a reſtoration made of all his Lands, Eſtate and Evidences.

And thoſe their Priviledges being but perſonal and temporary, and after they were allowed by our Kings a Speaker, which was about the Raign of King *R.* 2. the Houſe of Commons well knowing who was the only donor of them, never fail'd, at the Change & Allowance of every of their Speakers to give him in charge to Petition in their behalf unto the King for the ſame,no other Priviledges, being neceſſary for the aforeſaid Imployment.

Upon the violation of any whereof by any of their fellow Subjects they did ſo well underſtand the extent of thoſe their Temporary Peculiar and Limited Priviledges with the obligations of their Oaths of Allegiance and Supremacy, and that it neither appertained unto them, nor was or could be in their power to cauſe or enforce a better obſervation thereof, but it was only in the King that granted them, and was to be vouched to warranty, which was in common and ordinary matters very uſual in our Laws and reaſonable Cuſtoms, and therefore to him only as the Grantor and Protector of their Parliament Priviledges and not to themſelves the gratitude and acknowledment was only due.

And the Houſe of Commons until this our preſent unruly Age or Century did not adventure to take upon themſelves, or endeavour by any pretended Authority of their own to puniſh any the violators of their aforeſaid Priviledges, but ſupplicated Aid of their Kings and Princes that were the donors and granters of them.

And therefore in the Raign of King *Henry* the fourth, it was adjudged, that as the Record witneſſeth, *Videtur Cur. quod non.*

8. H. 6. For in *Anno* 8 *H.* 6. *William Lark*, a Servant of *William Wild*, Burgeſs of Parliament being arreſted upon an Execution during the Parliament, the Commons petitioned the King to give order for his diſcharge, and that no Lords, Knights, Citizens or Burgeſſes, nor their Servants coming to the Parliament, may be Arreſted during the Parliament, unleſs it be for Treaſon, Felony or Breach of the Peace.

Elſings anuncient and modern manner of holding Parliaments in *England.* 172. The King granted the firſt part of the Petition, *Et quant al reſidue le Rei ſa aviſera.*

29 H. 6. The Commons prayed, that *Edmond* Duke of *Somerſet*, *Alice Poole*, the late Wife of *William Poole*, Duke of *Suffolk*, *William* Biſhop of *Cheſter*, Sir *John Sutton*, Lord *Dudley*, the Lord *Haſtings*, *James de la Barre*, one of the Kings Secretaries, and 20, or 22 Knights and Eſquires, particularly named, amongſt which was *Thomas Kemp* Clerk of the Houſe of Commons (which the Commons themſelves and their own Clerk had not then found to be either a Liberty or Priviledge of their own to puniſh) might be baniſhed from the King during their Lives, and not to come within twelve Miles of the Court, for that the People do ſpeak evil of them. To

To which the King anſwered, He is of his own meer motion contented that all ſhall depart, unleſs only the Lords, and a few of them whom he may not ſpare from his preſence, and they ſhall continue for one year to ſee if any can duly impeach them.

In *Anno* 31 *H.* 6. The Commons made a Requeſt to the King and Lords, that *Thomas Thorp* their Speaker and *Walter Roil* a member of their houſe who were in Priſon, might be ſet at liberty according to their Priviledges. 31 H. 6. Ro. Parl.

The next day after the Duke of *York* (who was then a Rival for a long time, but after a publick Competitor for the Crown and Preſident of the Parliament) came before the Lords (not the Commons) and ſhewed that in the vacation (of the Parliament) he had recovered damage againſt the ſaid *Thomas Thorp* in an action of treſpaſs by Verdict in the Exchequer for carrying away the goods of the ſaid Duke out of *Durham* Houſe, for the which he remained in Execution, and prayed that he might continue therein.

Wherein the Councel of the Judges being demanded, they made Anſwer, it was not their part to Judge of the Parliament which was Judge of the Law (wherein ſurely they might rather have ſaid what they ſhould have moſt certainly have believed then as Sir *Edward Coke* did long after that the King was *principium, caput & finis Parliamenti*) and only ſaid that a general *Superſedeas* of Parliament there was but a ſpecial *ſuperſedeas* in which caſe of *ſpecial ſuperſedeas* every Member of the Commons Houſe ought to enjoy the ſame unleſs in caſes of Treaſon, Felony, Surety, of the Peace, or for a condemnation before the Parliament. *Cokes* 4th. part Inſtitutes tit. Parliament.

After which the Lords determined that the ſaid *Thomas Thorp* ſhould remain in execution, and ſent certain of themſelves to the Commons (who then had ſo little power to free themſelves from Arreſts and impriſonment, as they could not deliver their own Speaker out of Priſon, but were glad to follow the direction of the King and Lords to chuſe and preſent unto the King another Speaker) the which they did, and ſhortly after certain of the Commons were ſent to the Lords to declare that they had in the place of the ſaid *Thomas Thorp* choſen for their Speaker *Thomas Charleton* Eſquire.

Walter

39 H. 6. n. 9. *Walter Clark* a Burgeſs of *Chippenham* in the County of *Wilts* being committed to the Priſon of the *Fleet* for divers condemnations as well to the King as to others, was diſcharged and ſet at Liberty at the Petition of the Commons to the King and Lords without Bail or Mainpriſe.

12 E. 4. n. 55. At the Petition of the Commons *William Hill*, a Burgeſs of *Chippenham* aforeſaid being in Execution in the *Kings-Bench* was delivered by a Writ of the *Chancery* ſaving the Plaintiffs right to have Execution after the Parliament ended.

17 E. 4. It was enacted by the univerſal Vote and Judgment as well of the Commons as the Lords, that *John Atwil* a Burgeſs for *Exeter* being condemned during the Parliament in the Exchequer upon 8 ſeveral informations at the ſuit of *John Taylor* of the ſame City, ſhall have as many *Superſedeas* as he will until his returning home.

Anno 28. & 29. H. 8. §. 18. King *Henry* 8. in the caſe of *Trewyniard* a Burgeſs of Parliament impriſoned upon an Outlawry after Judgment cauſed him to be delivered by a Writ of Priviledge upon an Action brought againſt the Executors and a demurrer it was reſolved by the Judges to be Legal.

34 H. 8. *George Ferrers* Gent. ſervant of the King, and a Burgeſſe of Parliament, being arreſted in *London*, as he was going to the Parliament-houſe by a Writ out of the Court of Kings Bench in execution at the Suit of one *White* for the ſum of 200 markes, being the debt of one *Walden*, which arreſt being ſignifyed to Sir *Tho. Moyle* Knight, Speaker of the Houſe of Commons, and to the Knight and Burgeſſes there, an order was made that the *Serjeant of the Mace* attending the Parliament ſhould go to the Compter and Demand the Priſoner, which the Clerks and Officers refuſing, from ſtout words they fell to blows, whereof enſued a fray not without hurt, ſo as the ſaid *Serjeant* was forced to defend himſelf with his Mace, and had the Crown thereof broken off by bearing off a ſtroak, and his Servant ſtruck down, which broil drawing thither, the 2 Sheriffs of *London* who did not heed or value the *Serjeants* complaint and miſuſage ſo much as they ought, but took their Officers parts ſo as the Serjeant returning without the Priſoner, informed the Speaker of the Houſe of Commons how rudely they had entertained him who took the ſame in ſo ill part,

part, that they all together, ſome of whom were the Kings privy Councel, as alſo of the Kings privy Chamber reſolved to ſit no longer without their Burgeſs, but left their own houſe and went to the Houſe of *Peers*, and declared by the mouth of their Speaker before Sir *Thomas Audley* Knight then Lord Chancellor and all the Lords & Judges there aſſembled, the whole matter (ſuch no Eſtates they believed themſelves to be) who Judging the contempt to be very great, referred the puniſhment thereof to the order of the Houſe of Commons, who returning to their places again, ordered that their *Serjeant* ſhould go to the Sheriffs of *London* to demand the delivery of their Burgeſs without any Writ or Warrant, albeit the Lord Chancellor offered to grant them a Writ, which they refuſed, as being of opinion that all commandments and orders of their Houſe by their Serjeants only ſhewing of his Mace (the Enſign of their Soveraigns authority) without a Writ, would be authority ſufficient, but before the Serjeant came into *London* the Sheriffs having intelligence how heinouſly the matter was taken, better bethought themſelves, and delivered the Priſoner, but the *Serjeant*, according to his command charged the Sheriffs to appear the next morrow in the Houſe of Commons, bringing with them the Clerks of the Compter, and the ſaid *White* was likewiſe taken into Cuſtody, whereupon the next morning the ſaid Sheriffs and Clerks, together with the ſaid *White*, appearing, were compelled to make Anſwer without Councel, and with the Sheriffs, and the ſaid *White* were committed to the *Tower* of *London*, and the Officers and Clerks to *Newgate*, where they remained for ſome days, and were after delivered, not without the humble ſuit of the Lord Mayor of *London*, and divers of their friends; But a debate and queſtions ariſing in the Houſe of Commons, which laſted 9 or 10 days together, how to preſerve the debt of the Creditor whilſt they enjoyed the priviledge of Parliament by delivering Mr. *Ferrers* out of priſon upon an execution, and ſome being of opinion that it was to be ſalved only by an Act of Parliament, and not well agreeing alſo thereupon the King being advertiſed thereof, ſummoned to appear before him the Lord *Chancellor*, and the Judges and the Speaker of the Houſe of Commons, and other the graveſt perſons of that

Houſe who after his Judicious arguments concerning the extent and warrantableneſs of the priviledge of Parliament, and his own more eſpecially in the granting thereof touching the freedom from Arreſts (which all the Judges aſſented unto, none ſpeaking againſt it) commended notwithſtanding the intention of his Houſes of Parliament to have an Act to preſerve the Creditors debt, who he ſaid deſerved to have loſt it, the Act of Parliament was conſented unto by the Commons, but paſſed not the Houſe of Lords by reaſon of the ſudden diſſolution of the Parliament.

Comptons Juriſdiction of Courts Tit. Parliament.

Upon the report made by Mr. *Attorney of the Dutchy of Lancaſter* Chairman or principal of the Committee of the Houſe of Commons for the delivery of *Edward Smally* a Servant of Mr. *Hales* a Member of Parliament arreſted in Execution, that the ſaid Committees found no Preſident for the ſetting at large by the *Mace* (and if they had, it had but denoted the Kings ſole Authority for that it was his Mace and his Serjeant at Arms that carried it, and none of their Mace or Serjeant) any perſon in Arreſt but only by Writ, and that by divers precedents of Record peruſed by the ſaid Committee, it appeareth that ever Knight, Citizen and Burgeſs of the Houſe of Commons in Parliament which doth require Priviledge, hath uſed in that caſe to take a corporal Oath before the Lord *Chancellor* or Lord Keeper of the great Seal of *England* for the time being, that the party for whom ſuch Writ was prayed was his Servant at the time of the Arreſt made.

8 *Eliz.* in the Journal of the Houſe of Commons. *Et Elſings Annant*, and modern manner of holding Parliaments in *England* 199, 200, 201. & *Pryns* Animadverſions upon Sir *Edward Cokes* 4th part of the Inſtitutes.

And thereupon Mr. *Hall* was ordered by the Houſe, that he ſhould repair to the Lord Keeper, and make Oath in form aforeſaid, and then to proceed to the taking of a Warrant for a Writ of Priviledge for his ſaid Servant according to the ſaid report, and it ſo appears by the Journal of the Houſe of Commons, and ſaith Mr. *Elſing*, the Writ of Priviledge being ſo eaſy to be had, what needed any Petitions to be made by the Commons to the King and the Lords for the ſame, and as there is no precedent for this in the times of *Edward* the third, *Richard* 2d *H.* 4. nor *H.* 5. ſo there are none to the contrary.

There being then no ſuch opinions as have been ſince indulged and ſeditiouſly enough eſpouſed by ſome that

that would go ſo far beyond Truth and Reaſon as to believe that the Members of the Houſe of Commons that are or ſhall be, have a Charter of Ordination, or which is more, of a never to be prov'd Commiſſion from an unintelligible power of Soveraignty of the People.

And a man might wonder himſelf almoſt into an Extaſy or Inanition how or by what magical or ſtrange artifice Sir *Edward Coke* in the latter end of his Age and Treaſury of Law and good Learning, if he had ever Studied and read as he ought to have done the Feudal Laws, which were our Fundamental Laws, and the Original of our once (and I hope may be again) happy government, and might before he came to be overcreduloufly infected with the Impoſtures of the *modus tenendi Parliamenta, and mirrour of Juſtice*, have well underſtood that they were no other than thoſe which are and long have been the Laws of the *Britains*, *Saxons*, *Germany*, *France*, and *Spain*, the *Goths*, *Vandals*, and *Longobards*, *Denmark*, *Norway*, *Sweden*, *Hungary*, *Bohemia*, *Holland*, and *Weſt Freizland*, *Gelderland*, *Savoy*, *Tranſilvania*, *Sileſia*, *Moldavia*, *Walachia*, *Navarre*, *Catalonia*, and the Republicks of *Geneva* and *Genoa*, Kingdoms of *Naples* and *Sicily*, *Dutchies* of *Lorrain*, *Millian*, and *Florence*, with ſome little ſmall diverſities, and that all our multitudes of allowed Cuſtoms, Uſages and Priviledges by the Indulgence of our Kings and Princes, and their Laws, have had no other Fountain or Original, and ſhould confeſs that our *Magna Charta*, and *Carta de Foreſta* which were not only ſome Relaxations, Liberties and Priviledges granted and allowed by our King *Henry* the third, but were expreſsly granted to be holden of that King his Heirs and Succeſſors *in Capite*, and that both they and all our Acts and Ordinances made them to be no other than as their *Patroni* or foundation; and that our *Colloquia generalia* or *Magna Concilia*, or *Curia*, as *Brodon* ſtiles them now, or for many Ages paſt called Parliaments, and even thoſe *beneficia* and Laws were not unknown to the Brittains in the time of their valarous and great King *Arthur*, and could tell how when he was a Member of Parliament in the third year of the Raign of King *Charles* the Martyr, and one of the moſt eminent and buſy, to Name and Stile the Petition of the Lords Spirittual and Temporal, and Commons in

Brodon de Legibus & Conſuetudinibus Angliæ.

in Parliament Aſſembled, their *Petition of Right*, when that which they would there claim to be their Rights and Liberties, had no Right, Reaſon, Law, Preſident, true Hiſtory or Record to back or aſſert what they deſired the King to give his Royal aſſent or *Fiat* unto, and was no more the Rights of the People truly underſtood than to deſire a Liberty to pull down the Houſe or Government upon their own heads, carve out their own deſtruction, and entail it, or as little Children left alone in an Houſe with a great fire without any wiſer Body to regulate or take care of their Actions, would deem it to be a brave Sport and Liberty to play with the Fire, until they had ſet the whole Houſe on fire, and burnt themſelves into the bargain; and if after he had by his practice and ſtudy of the Common Law, which was nothing but our *Feudal* Laws, too much forgotten or unknown unto thoſe that would be called our Common Lawyers, and gaining 10000 *l. per Annum*, Lands of Inheritance, made his boaſt that he had deſtroyed the ſo fixed and eſtabliſhed Deeds of Entail, and the Wills and Intent of the Donors, as nothing of Colluſion, Figments, or other Devices, ſhould prejudice, and no Gentleman or Lover of Honour, Gentry or Families, would ever have had an hand in ſuch a deſtruction, Levelling, Clowning, Citizening, and Ungentlemanning all, or too many of the Ancient Families of *England*; And if he could have lived to have ſeen or felt the toſſing, plundering, and waſhing in Blood three great and flouriſhing Kingdoms, would have wept bitterly and lamented, or with *Job*, have curſed the hour or time of his birth, that he ſhould ever have given the occaſion or been Inſtrumental in the promoting or being a Contributor unto thoſe very many dire Confuſions and Diſaſters that after happened; for if he had well read and weighed the Hiſtory and Records both before, & ſhortly after the gaining of that Act of Parliament *de Tallagio non concedendo*, without the conſent of the Lords Spiritual and Temporal, and Commons in Parliament Aſſembled, and how much that great and prudent Prince King *Edward* the firſt, was preſſed and pinched, when his important affairs cauſed his ſudden tranſfrecation by the overpowering party of three of his greateſt Nobility, *viz.* *Bohun* Earl of *Hereford* and *Eſſex* Conſtable

34 E. 1. cap. 1.

Conſtable of *England*, *Clare* Earl of *Glouceſter* and *Hertford*, and *Bigod* Earl of *Norfolk* Earl Marſhal of *England*, all whom and their Anceſtors had been advanced to thoſe their *Grandeurs* by him, and his Royal Progenitors had ſo catched an advantage upon him, and were ſo mercileſs in their demands, as they not only would not allow him a *ſaving* of his *Jure Regis*, very uſual and neceſſary, in many of our Kings and Princes grants as well in the time of Parliaments as without, but enforced an Oath upon him, which he took ſo unkindly, as he was conſtrained ſhortly after to procure the Pope to abſolve him of, for that it had been by a force put upon him, (which a *Proteſtant Pope* might have had a Warrant from God Almighty ſo to have done, but did after his return into *England* ſo remember their ill uſage of him, as he ſeized their three grand Eſtates, and made the two former ſo well to be contented with the regaining of his favour, as *Bohun* married the one of his Daughters, and *Clare* the other without any portions with an Entail of their Lands upon the Heirs of the Bodies of their Wives the Remainder to the Crown, laid ſo great a Fine and Ranſom upon *Bigod*, the Earl Marſhal, as he being never able to pay it, afterwards forfeited and loſt all his great Eſtate, and be all of them ſo well ſatisfied with his doings therein, as they were in the 34th year of his Raign glad to obtain his Pardon, with a *Remiſſimus omnem Rancorem*; And they and Sir *Edward Coke* might have believed that that very prudent Prince might with great reaſon and truth have believed his Regality ſafe enough without a *Salvo Jure Regis*, when the Law and Government it ſelf, and the Good and Intereſt of every Man, his Eſtate and Poſterity was, and would be always eſpecially concerned in the neceſſity, aid and preſervation of the King their common Parent, appointed by God to be the Protector of them. Cap. 5.

And our ſingularly learned *Bracton* hath not informed us amiſs, when he concluded, that *Rex facit Legem* in the firſt place, & *Lex facit Regem* in the ſecond, giveth him Authority and Power to guard that Regality which God hath given him for the protection of the People committed to his charge, who are not to govern their King, but to be governed by him, and ſhould certainly have the means to effect it, for how ſhould he have

power to do it, or procure his People to have a Commerce or Trade with their Neighbour People or Princes, if he as their King had not any, or a juſt Superiority over them, *&c.* and muſt not for all that have and enjoy thoſe Duties, Rights and Cuſtoms, which not only all our Kings Royal Progenitors, but their Neighbour Princes, and even *Baſtard* and ſelf-making Republiques have quietly and peaceably enjoyed, without the Aid and Aſſiſtance of any the Suffrage of the giddy Rabble, and vulgar ſort of the People controuling in their unfixt and inſtable Opinions, thoſe of the Lords Spiritual and Temporal, and the wiſer and more concerned part of the People, of which, and the Rights and Cuſtoms due and payable to our Kings and Princes. Sir *John Davies* a learned Lawyer in the Raign of our King *James* the firſt, hath given us a learned, full and judicious Account, which well underſtood, might adjudge that *Petition of Right* to deſerve no better an entertainment than the Statute of *Glouceſter* made in 15 *E.* 3. which by the Opinion of the Judges and Lords Spiritual and Temporal was againſt the Kings Prærogative, and contrary to the Laws and Cuſtoms of the Realm of *England*, and ought not to have the force and ſtrength of a Statute; and Sir *Edward Coke* might have remembred that in the Raign of King *Edward* the Third, the Commons of *England* did in Parliament complain that Franchiſes had for time paſt been ſo largely granted by the King, that almoſt all the Land was enfranchiſed to the great *arreiriſment & eſteniſement* of the Common Law (which they might have called the Feudal Law) and to the great oppreſſion of the People, and prayed the King to reſtrain ſuch Grants hereafter, unto which was anſwered, The Lords will take order that ſuch Franchiſes as ſhall be granted ſhall be by good Advice.

Sir *John Davies* concerning the Kings Cuſtoms, and the Statute *de Tallagio non concedendo.*

Rot. Parl. 21 E. 3.

And that if by any Statute made in the 25th year of the Raign of King *Edward* 3. it was ordained that no man ſhould be compelled to make any Loan to the King againſt his will, becauſe ſuch Laws were againſt Reaſon, and the *Franchiſe* of the Land, that Statute when it ſhall be found, will clearly alſo appear to be againſt our Ancient Monarchick Government Fundamentally grounded upon our Feudal Laws, that our *Magna Charta & Charta de Foreſta*, are only ſome Indulgence

Eginard en la vie de Charlemaigne.

Indulgence and Qualification of ſome hardſhip or Rigour of them, that the Excommunication adjudged to be by the Statute of 25 *E.* 1. *ca.* 4. And the aforeſaid dire *Anathema's*, and Curſe pronounced in that Proceſſion through *Weſtminſter*-Hall, to the Abbey Church of *Weſtminſter*, againſt the Infringers of thoſe our Grand Charters are juſtly and truly to be charged upon the Violaters and Abuſers of our Feudal Laws and Ancient Form of Government, who ought better to aſſert them, and that the Coronation-Oaths of all our many Kings and Princes, ſwearing to maintain the Laws of King *Edward* the Confeſſor, which have for thoſe many Ages paſt ſo highly ſatisfied and contented the Common People, and good Subjects of *England*, do enjoin no other than our Kings and Princes ſtrict obſervation of the Feudal Laws, and their Subjects Obedience unto him and them, by their Oaths of Allegiance and Supremacy, and his and their Protection of them in the performance thereof, and from no other Laws or Cuſtoms, than the Feudal Laws have our Parliaments themſelves derived their original, as *Eginard* Secretary unto *Charles* the Great or *Charlemain*, who Raigned in the year after our bleſſed Saviours Incarnation, 768. conſiſting of Lords Spiritual and Temporal, if not long before had their more fixt beginning.

25 E. 1. ca. 4.

Eginard en la vie de Charlemaine.

How then can ſo grave and learned a Profeſſor of our Laws, and after an eminent Adminiſtrator of the Laws and Juſtice of the Kingdom, ſo either declare to the World, that he hath not at all been acquainted with our Feudal Laws, but gained a great Eſtate out of a ſmall, in a Government and Laws he knew no Original thereof, and make many things to be grievances of the People, which are but the Kings Juſt Rights and Authority, and the Peoples Duty, and their grievances in doing or ſuffering their Duties to be done as if diſobedience (which in our Nation hath too often hapned) were a Franchiſe of the Land, and a Right to be Petitioned for by the People.

But howſoever Mr. *Will. Pryn* being better awake, could be ſo kind a Friend unto the truth, as to give us notice that the Abridger of the Parl. Records left out much of what he ſhould have mentioned, *viz.* The Prelates, Dukes, Earls, Barons, Commons, Citizens, Burgeſſes & Merchants

of

of *England*, in the Parliament Petitioned the King not only for a Pardon in general, and of Fines and Amerciaments before the Juſtices of Peace not yet Levyed in ſpecial, but they likewiſe ſubjoin a memorable requeſt, ſaith Mr. *Pryn*, omitted by the Abridger, that in time to come the ſaid Prelates, Earles, Barons, Commons, Citizens and Burgeſſes of the Realm of *England*, may not henceforth be charged, moleſted nor grieved to make any Common Aid, or ſuſtain any charge, unleſs it be by Common Aſſent of the Prelates, Dukes, Lords, and Barons, and other People of the Commons of the Realm of *England*, as a Benevolence or Aid given to their King in his want of Money, which King *Henry* the 3d. ſometimes had, when he went from Abbey to Abbey declaring his Neceſſities, and King *Richard* the Third that Murthered his Brothers Sons to Uſurp the Crown, flattered the People they ſhould no more be troubled with, when it was never asked before the Raign of King *Henry* 3d. or ſince, by any of our Kings or Princes, until the urgent Neceſſities of our bleſſed Martyr, for the preſervation of his People cauſed him once to do it.

1 R. 3. ca. 2.

Or ſuch as the impriſoning of ſome few wealthy Men as obſtinately refuſed to lend him eaſie and ſmall Sums of Money, becauſe they would force him to call ſuch a Reforming and Ruining Parliament, as that which not long before hapned in *Anno* 1641.

Or ſuch as their heavily complained of Charges levied upon the People by the Lord Lieutenants or Deputy Lieutenants in ſome ſeldom Muſters or Military Affairs, which a ſmall acquaintance with our *Feudal* Laws might have perſuaded the Gentlemen of the miſnamed *Petition of Right*, to have been lawful, or that ſome impriſoned were not delivered upon Writs of *Habeas Corpus*, when there were other juſt Cauſes to detain them, at leaſt for ſome ſmall time of Advice; And if they will adventure to be tryed by *Magna Charta*, will be no great gainers by it, for *Magna Charta* well examined notwithſtanding the diſſolution of the Tenures *in Capite*, is yet (*God be thanked*) holden *in Capite*, and loudly proclaims our *Feudal* Laws to be both the King and the Peoples Rights, and diſdains to furniſh any contrivances againſt their Kings, who were the only free givers and granters thereof.

And

And the Statute of 28 *E*, 3. And all or the moſt of our Acts of Parliament, do and may ever declare the uſefulneſs of our *Feudal* Laws, and that Reverend great Judge might have ſpared the complaints of Free-quartering of Land-Soldiers and Marriners, or of puniſhing Offenders by Martial Law, and will hardly find any to commend him or any Lawyer for their proficiency in their amaſſing together ſo many needleſs complaints.

And that in full Parliament, The King then lying ſick at *Sheene*, whereof he died (and divers of the Lords and Commons in Parliament coming unto him with Petitions to know his pleaſure, and what he would have done therein) nor no Impoſition put upon the Woolls, Woolfels and Leather (having as they might think, as great an opportunity and advantage as the three great Barons, *Bohun*, *Clare* and *Bigod* had when they forced the Statute aforeſaid *de Tallagio non concedendo* upon King *Edward* the firſt, and would not ſuffer him to inſert his *Salvo Jure Regis*) or any the Annaent Cuſtom of Wooll half a Mark, and of three hundred Woolfels half a Mark, and of one Laſt of Skins one Mark of Cuſtom only, according to the Statute made in the 14th year of his Raign, ſaving unto the King the Subſidy granted unto him the laſt Parliament for a certain time, and not yet Levied.

Unto which the King gave anſwer, That as to that, that no Charge be laid upon the People without common Aſſent. The King is not at all willing to do it without great neceſſity, and for the defence of the Realm, and where he may do it with Reaſon.

For otherwiſe all Monarchies may be made Elective, and the Will, and great Example and Approbation of God diſappointed, where the Subjects and People will not be ſo careful of their own preſervation, as to help their King, when his and their Enemy hath invaded the Kingdom, and the People may as often as they pleaſe change or depoſe their Kings, when they ſhall reſolve to ſtand ſtill, and not help to aid him as the curſed and bitterly curſed *Moroz* did, and be as wiſe to their own deſtruction as the Citizens of *London* were in the late general Conflagration of their City, or a fooliſh fear of breaking *Magna Charta*, which could never be proved to have been any cauſe of it, they would to ſave and keep

unpulled down or blown up ten houſes, and ſave ſome of their goods, leave that raging and mercileſs Fire to burn twenty thouſand houſes in their City and Suburbs.

And it was no bad Anſwer alſo, that that great and victorious King *Edward* the third (as ſick as he was) made likewiſe unto that other part of their Petition, that Impoſitions be not laid upon their Woolls without Aſſent of the Prelates, Dukes, Earls, Barons, and other People of the Commons of his Realm, That there was a Statute already made which he wills that it ſhall ſtand in its force.

Wherein if they could by Fraud and Hypocritical Flatteries have entituled themſelves and their Faction-Mongers, and perſwade them to make them the only managers thereof, they will never be able to procure the ſo often deluded part of the people to believe they would deal any otherwiſe with them than they have done before, that is, when they gave them Stones inſtead of Bread, and Scorpions inſtead of Fiſhes.

3 Car. primi. Which Petition of Right, ſo called, being read unto the King the ſecond day of *June* 1626. his Anſwer thereunto was, the *King willeth* that *Right be done according to the Laws and Cuſtoms of this Realm, and that the Statutes be put in due Execution, that his Subjects may have no cauſe to complain of any wrong or oppreſſion contrary to their Juſt Rights and Liberties, to the performance whereof he holds himſelf as well obliged as of his Prærogative*, which not giving ſatisfaction, he was again petitioned for a *Fuller*. Whereupon he came in perſon and made a ſecond Anſwer, that the *Anſwer which he had already given them upon a great deliberation appeared in the Judgement of ſo many wiſe men, that he could not have imagined but that it ſhould have given them full ſatisfaction, but to avoid all ambiguous Interpretations, and to ſhew them that there was no doubleneſs in his meaning, and that he was willing to ſatisfy them in words as well as ſubſtance, bad them read their Petition and they ſhould have an Anſwer he was ſure would pleaſe them.*

Which being read by the *Clerk* of the *Crown*, the *Clerk* of the Parliament read the Kings Anſwer, which was to this effect, *that he was ſure was full, yet no more than what he had granted in his firſt Anſwer, for the meaning of that was to confirm all their Liberties, knowing according to*

their

their own proteſtation, that they neither mean nor can hurt his Prærogative. And he aſſured them, *that his maxim was, that the Peoples Liberties ſtrengthen the Kings Prærogative, and that the Kings Prærogative is to defend the Peoples Liberties; they might ſee how ready he had ſhewed himſelf to ſatisfie their demands, ſo as he hath done his part, and therefore if that Parliament hath not a happy Concluſion, the fault will be theirs he was ſure of it.*

Which being reported in the Town, ſo filled the People with Joy, as by the Parliaments Order, the Bells and Bonefires every where proclaimed the comfort and hopes of a deluded People, little thinking as it afterwards proved, to have their King and Defender of their Faith and Religion, manacled and betrayed into the fatal conſequences of a long laſting King and People, deſtroying Parliament-Rebellion.

And on the laſt day of that Seſſion, his Majeſty before any Bill ſigned, ſpake unto both the Houſes of Parliament, and told them, *that he owed an accompt of his Actions to none but God alone, that it was well known unto many that a while ago the Houſe of Commons gave him a Remonſtrance how acceptable every man might judge, and for the merit he would not call it in queſtion, for he was ſure no wiſe man could juſtifie it.*

But ſince he was certainly informed that a ſecond Remonſtrance was preparing for him, to take away his Poundage and Tunnage, one of the chief maintenance of the Crown (a grateful return of his Anſwers to that they without any Juſt Title would call their *Petition of Right*) *by alledging that he had given away his Right therein by his Anſwer unto that Petition; And is ſo prejudicial unto him, as he is enforced to end this Seſſion, ſome few hours before he meant, he being willing not to receive any more Remonſtrances, unto which he muſt give an harſh Anſwer.*

And ſince he ſeeth that even the Houſe of Commons, do begin already to make falſe conſtructions, to what he had granted in their Petition, (*which was in truth rather a claim of his Rights than any thing that was their own,*) *leaſt it ſhould be worſe interpreted in the Countrey, he would make a Declaration concerning the true Intent thereof, the profeſſion of both the Houſes of Parliament, in the time of their hamering their Petition, was not to incroach upon his Prærogative,* (which appears to be the only deſign and drift thereof,)

of,) *ſaying they had neither intent or power to hurt it, therefore it muſt needs be conceived, that he hath granted no new but only the ancient Liberties of his Subjects,* (which underſtood as they ought to be, neither were to be their Liberties or Rights, but his own, unleſs they would Petition him, that they might be Kings and he their Subject) *yet to ſhew the clearneſs of his intention, that he neither intends or means to recede from any thing which he hath promiſed them, he did there declare that thoſe things, which have been done whereby men had ſome cauſe to ſuſpect the Liberty of the Subject to be trenched upon,* (*which indeed was the firſt and true ground of the Petition*) *ſhall not hereafter de drawn into Example of their Prejudice, and in time to come* (in the word of a King *they ſhall not have the like cauſe to complain.*

But as for Poundage and Tonnage, it is a thing he cannot want, and was never intended by them to ask, never meant he was ſure by him to be granted.

Commanded all that were there to take notice of what he had ſpoken at that time to be the true intent and meaning of what he had granted unto them in their Petition; but eſpecially the Judges, for unto them only under him belongs the Interpretation of Laws, for none of the Houſes of Parliament joint or ſeparate (what new Doctrine ſoever may be raiſed) *have any power either to make or declare a Law without his conſent.*

Which all the Inveigling promiſing Petitioners were wiſer than to make any attempt to contradict when they foreſaw it not to be poſſible by any parcel or Rule of truth, but made what they thought they had ſo ſucceſsfully gained to be an Incouragement to proceed to other deſigns, in making themſelves Governours of their Kings, and to be of their Election, when God never gave them any ſuch Power or Juriſdiction, or appointed our Kings to permit their Subjects under the colour or pretence of Councel, Advice and Approbation in Parliament, to be as helpful to their Kings and fellow Subjects, as the *Epheri* in *Sparta* were to make it their buſineſs to find out as many of the Errors in government, and grievances of the people of their own making, and charge the faults upon their Kings when they were of the *Ephori's* own making.

Or by what ſtrain or ſtretch of wit, or ſqueezing the word

word Priviledge, thoſe aforeſaid Parliament Priviledges allowed by our Kings to the Houſe of Commons in Parliament, *viz.* Acceſs unto them, freedom of Speech, and from Arreſts during that their Imployment could be made to laquey after, or be ſubſervient unto thoſe many their evil deſigns which after enſued, having no proper or peculiar Fixation as to other matters cannot *in ſuo genere* be of the nature or kind either of Properties or Liberties, which are of another ſort altogether diſtinct and ſeparate from them when property, if truth and rectified reaſon be called to Councel ſignifieth no more, nor was amongſt learned or common underſtanding men accepted or taken to be then that,

Proprium cum ſuum cuique eſt ſeparatum a Communitate Ita dictum quod maxime prope eſt proprie peculiare & id quod unius cujuſque eſt maxime prope eſt quod proprium eſt Græcis ἴδιον ab ἴδιος. ſpecies. Prot.

Eſt etiam proprium ſtabile perpetuum certum ſemper propinquum omne quod habemus aut mutuum aut proprium eſt mutuum quod ad tempus habemus nec poſtmodum. Scalig. lib. 4. Poetic. Donatus.

Uno naturali nomine homines appellaremur, Jure gentium tria genera eſſe ceperunt liberi & his contrarium ſervi & tertium genus qui deſierunt eſſe ſervi. Libertas opponitur ſervituti libertatem Cicero Paradoxis definit eſſe poteſtatem vivendi, ut velit noſter Florentinus, ait eſſe naturalem facultatem quod cuique facere libet infra quod vi aut Jure prohibetur & libertas non privata, ſed publica res eſt Martianus ad l. ſi quis ff. de fidei commiſſi libertas opponitur ſervituti unde convenire non poſſunt l. ergo ff. de fide libert. proprium eſt ſuum cujuſque diciturque quod non eſt aliis Commune proprium ſive proprietas quod allodium dicitur propterea quod ejus proprietas ſolido Dominum eſt neque alteri ejus uſu fructus eſt conſtitutum. D. lib. tit. 1. 4. and in Inſtit. lib. 1. tit. 5. L. F. de Statum hom. § 1. Lib. Feud. tit. 17. Leg. 4. F. de uſu fruct. per l. 4.

Juriſconſulti modo proprietatem ſolidum modo proprietatem tum uſu fructu modo uſu fructum proprietati admixtum appellant ſit leg. franc. lib. 1. ca 11. ut unuſquiſque ab illo beneficio ſuam familiam nutritare faciat de ſua proprietate propriam familiam nutriat & ſi deo dante ſuper ſe et familiam ſuam aut in beneficio aut in Alodio Annonam habuerit.

And the Civil Law, that Univerſal Law of the World under the Sacred and Divine can abundantly inform us, that there is amongſt the Generations of the Sons of

Men not only a *directum Dominium*, but an *utile*, which made that to be rightly ſaid and believed of the Regal or Imperial Authority, *Dominium in Univerſis in ſingulis proprietas.*

Senica.

For *Dominum eſt Jus et poteſtas re quaquam tum utendi quam abutendi quatenus Jure Civili permittitur, & uſus fructus differt a ſolido Dominio & uſu fructus eſt Dominium plenum quia cum uſu fructus cohæret proprietas nudum quod et directum dici poteſt cum ſeparatum eſt ab uſu fructus § 2. Inſtit. Dominium directum et utile Dominii duo eſſe officia unum diſponendi alterum vindicandi per l. in rem aut Bart. in l. 1. de acquirend. Dominum.*

Martinii Lexicon.

And *non eſt noſtrum niſi illa quæ oripi non poſſunt.* And a Feudatory as a Tenant in *Capite*, immediate or mediate are no otherwiſe in reſpect to their Superiors, who firſt gave or created the Fees, which can be no other than Uſufructs or *utilia Dominia*, reſiding in the firſt that gave the Lands or Eſtates.

Spelmans Gloſſar.

Liber homo liberi homines liberi et legales homines ad nobiles olim ſpectabant iſti totum maxime enim vulgi pars aliqua ſervitutis ſpecio coercebatur ſit ut ſineſſe mancipii non liceret qui vero manumiſſi aſſecuti libertatem Romanis liberti et libertini inferioribus ſeculis ingenii dicebantur.

Legalis in Jure noſtro dicitur qui ſtat rectus in curia non exlex non utlogatus nec excommunicatus vel infans, ſed qui in lege poſtulet & poſtuletur hoc ſenſu vulgare illud in formulis Juridicis probi et legales homines hinc legalitas pro conditione illiuſmodi L. L. Ed. confeſſ. de eo an Reus mortis miſericordiam ipſo tamen malefactor fide juſſores de pace & legalitate tuenda, Sureties for his good behaviour, ***Francus tenens libero tenens qui terras vel prædia a Domino ſuo libero tenet Aſſ. de*** Clarendon, Hovedon, p. 549. ***ſi quis obierit Francus tenens hæredes remanent in tali ſoiſina quali pater ſuus habuit eo Had.*** 1193. page 725. ***venerunt in Angliam nuncii Regis cum literis illius miſſi ad omnes Archiepiſcopos Barones Clericos & Francos tenentes.***

And thoſe our late Multipliers of Priviledges of Parliaments, may conſider that *proprietates dictæ ſunt res immobiles quas quis comparat comparare libertates in L. L. Longobard. lib. 3. tit. 1. 5. 19. 20. Ubi proprietas mox Alodus dicitur proprietatem adquirere in Libro Chronic. Launſham p. 68. Teſtamentum Hadonidi Epiſcopi Cænomanum,*

Du Freſne.

manum, villani proprietates mea Iſcommodiorum quam data pecunia de Anſerina & genetrice ſua comparavi ita ut proprietates dicunter res Dominicæ ac propriæ reſpectu eæ quæ in beneficium tenebantur Tabularum Brivat. ca. 33. Cedo aliquid de rebus proprietatis quæ mihi per conqueſtum evenerunt & ca. 335. de rebus proprietatis noſtræ quæ ex attractu mihi obvenerunt Hinckmarus Remenſis in Epiſtola ad Carolum Regem quia ipſi veſtri homines & proprietatem & beneficium in Regno veſtro & in mea parochia habent tradit. Fuldenſis lib. 3. trad. 30. cum alia quæ ſibi vel proprietatis Jure vel beneficiali Lege undecunque contingerent filiæ ſuæ ubi proprietates opponuntur beneficiis quæ ad vitam poſſidebantur, & proprium idem quod proprietas Autor Quel. datum tibi eſt de proprio nihil habere Charta Clodovei apud Rover. in Reom. page 30. tam ex munere noſtro quam de paterno aut proprio, aut de conlato populi ſeu de quolibet adtracto aliquid auferre præſumat ca. 1. Anno. 812. ut omnis liber homo qui 4. manſos veſtitos de proprio ſive de alicujus beneficio habet Charta Lotharii Imp. apud Beſſuim p. 260. curtes duas cum ſuis appendiciis noſtris daremus præcepto & duos quod Alodes nuncupant ejuſdem loci Incolæ, & ſua propria.

Cicero defineth Liberty to be *poteſtas vivendi ut velint, at non vivit ut velit qui juxta ſenſus carnis ſuæ & cupiditates, ſed is ſolummodo qui vivit juxta rationem, Plutarchus & Epictetus eandem liberi definitionem, idemque Arianus ex Epicteto eum dixit liberum eſſe cui nec impedimentum præberi poſſit volenti nec vis inferri volenti.* Gibieuf de Libertate Dei & Creaturæ.

For amongſt the too many claimed Priviledges to be appertaining to the Members of the Houſe of Commons when they are aſſembled in Parliament, by vertue only of their Kings and Princes Writs, as hath been before mentioned, there are only theſe which their Speaker petitioned for, for ſince the Dream of the men of St. *Albans* in *Anno* 8 *E.* 2. expounded and managed, as Mr. *William Petitt* could think or imagine for his beſt advantage, but not knowing where it was run away from him,& not finding it in the bold Petitions of ſome of the Houſe of Commons in Parliament, in the ſecond year of the Raign of K. *Henry* the 5th,& perceiving that he could get no aſſurance or confirmation of it, by the Kings Anſwer thereunto, hoped as their Champion that his Argument might prove as good as that of the good men of St. *Albans*, and hit the Nail on the Head, was therefore enforced when he ſaw the Kings anſwer in the ſame Record to ſilence it rather than his admirers

ſhould

ſhould underſtand it, and theſe claims of fancied Priviledges, were ſo little believed to accord to thoſe their unhappy deſigns, as there was no more demand or news afterward of them, in all our Kings and Princes Raigns, until the Parliament in the Scottiſh League and Covenant, with a factious party of our *Engliſh* in the years of our Lord 1637, 1638, and 1639. when *Philip Nye* a buſy factious Miniſter and Arch contriver and propagator of Rebellion, and ſome other ſpecial Commiſſioners were ſecretly ſent from *England*, to prepare the intended united Rebellion of *England* and *Scotland*, and put the management thereof into a Method, moſt agreeable to the vizard of their counterfeit Religion, and at the firſt a kind of ſupplicating Rebellion with Petitions and Remonſtrances in their hands, as well as Arms, Amunition, and all other Warlike Offenſive and Defenſive Proviſions.

And if our Engliſh Parliaments had any ſuch Stock of Liberties or Priviledges proper for Members of an Houſe of Commons to demand, it can be no leſs than a wonder extraordinary, where thoſe inviſible Liberties or Priviledges have lurked or lain hid for more than 1000 years ever ſince Parliaments or Great Councels have been holden or kept in *England*, under our *Britiſh*, *Saxon*, *Daniſh* and *Norman* Kings, and the long ſucceſſion of our many Kings and Princes until that horrid long laſting Rebellion that had its riſe in the years aforeſaid, and with great ſtore of miſeries and deſolations continued until now, being about 49 years, and that none of the many Speakers (other than Sir *John Tibetot* in the Raign of *Henry* 4. which gave occaſion to all the Speakers afterwards to crave pardon of the King if they ſhould demand any thing more than was befitting them) allowed by our Kings, and entruſted by the Houſe of Commons in Parliament, in matters of ſo great weight and concernment as is pretended for the publick good, ſhould ſo much neglect it ſince the 21 *E.* 1. or the times ſince ſucceding, as at their admiſſion by our Kings and Princes to demand but two Priviledges, when they ought to have asked very many as their well-willers, but no friends unto either Loyalty or true Religion, do without any grounds of Reaſon and Truth deſire to have allowed who could hear Queen *Elizabeth*

give

give a charge to ſome of the Speakers to inform the Members of the Houſe of Commons that ſhe would not have them intermedle with matters of Church, and commanded the Speakers not to receive any ſuch Bills if they ſhould be offered, and their then learned Speaker Sir *Edward Coke* durſt not adventure to object unto her, his too much at other times adored Fictions and Fables of the *modus tenendi Parliamenta*, and the mirrour of Juſtice, and a very great misfortune it muſt needs be to our Kings and Princes eſpecially, that ever ſince *Jack Cades* Rebellion in the later end of the Raign of King *Henry* the ſixth, they ſhould be only troubled with the diſcords and troubles in their Councels which ſhould be moſt helpful unto them, which their neighbour Kings and Princes have not met withal in their like Methods and Rules of Government.

The Kings of *Iſrael* were commanded to read the Law, which was not then *non-ſcripta*, often References were made to the Book of the Chronicles. The Decalogue was written as God had dreadfully pronounced, by *Moſes*, and being afterward broken, were written again by the Almighty's own Finger, the bleſſed Words, Commands and Examples of our Saviour were written by the *Evangeliſts*, St. *Pauls* Epiſtles, have happily come unto us, not by being not written, but by having been written, the twelve *Tables* fetched from *Athens* and *Sparta*, and brought unto *Rome*, were there hung up *Æneis Tabulis*, and their *Sibylline* Books were of great value, our *Bede*, *Lambard*, and *Somner*, have found our *Saxon* and *Daniſh* Laws to have been written, and St. *Edward* the Confeſſors Laws were written before they were hid under his Shrine, being not different from thoſe that have been afterwards ſworn unto by our ſucceſſive Kings and Princes at their Coronation; ſome Laws forced from King *John*, were reduced into his Charter at *Running Mede*, our *Magna Charta*, & *Charta de Foreſta* freely granted by our King *Henry* the third, and after thirty times confirmed in ſeveral Parliaments, and ordered to be preſerved in all our Cathedral Churches, did certainly deſerve the Title of *Jura ſcripta*.

When they might upon a ſober and the ſtricteſt, not Fanatick, Rebellious Enquiry be well aſſured that thoſe neceſſary Priviledges of Parliament, were not to puniſh

by their power but the Kings, the Infringers of thoſe Priviledges, and that thoſe which by a wicked or unheard of Antipolitiques or their Impoſtuting Champions or men at Arms would have by a new Art or trick of Jugling the Liberties and Properties of the people to be Priviledges of Parliament, may find that the words *Privilegium, proprietates & libertates* never did or can ſignify any more than ſuch Liberties, Priviledges and Properties in and unto thoſe their own Liberties and Eſtates, which for a great part of them had been gained by the Favour and Indulgence of their Kings and Princes.

And ſhould rather acknowledge that there is and ought to be no ſmall difference betwixt *Privilegium* and *beneficium*, and that *privilegium in alterius præjudicium* many times happens to be *& beneficium nec in Juris communis detrimentum, nec in alterius damnum conceditur*, as that certainly was of the admittance of ſome of the Common people to be Members of the Houſe of Commons in Parliament in 21, or 22. *E.* 1. to be made privy unto the making of ſuch Laws, wherein they might be concerned and have an opportunity to Petition their Kings for redreſs of any grievances happened unto them. And that *conceſſio Privilegiorum partim eſt expreſſa, partim Tacita; Expreſſa, quæ per concedentem verbis expreſſis tribuuntur qualia ſunt illa quæ a Principe peculiari reſcripto, vel aquovis alio magiſtratu, vel ſuperiore dantur, vel in volumen Legum redacta, ut Exempli gratia, Privilegia Minorum, fœminarum filiorum familias & ſimilia; Tacita ſunt quæ præſcriptione conſuetudine vel per ſententiam acquiruntur; In conceſſione Privilegiorum obſervari debet ne contra Jus divinum poſſumus & morale & ejuſque abolitionem quicquam indulgeat vel largiatur*, (which would ſo have been if the parties ſuppoſed to have been Priviledged ſhould extend them againſt their King and Gods Vicegerent.

Reynoldus Curick de Privilegiis, p. 22.

Ibidem, cap. 4. p. 52. & 53. & 91.

And it neither was, or could be by any Rule of Law or Right Reaſon, any Priviledge granted unto any Members of the Houſe of Commons in Parliament by any of our Kings to their Speaker, or otherwiſe that any of our Kings and Princes ſhould not upon any occaſion of High Treaſon, Felony, or breach of the Peace, perſonally enter into the Houſe of Commons, and cauſe to be Arreſted any of the Members thereof, when Queen *Elizabeth*

zabeth cauſed Dr. *Parry*, one of their Members to be Arreſted, ſitting the Parliament, for High Treaſon, and tryed, condemned, and executed for it by Sentence of her Juſtices in the Court of Kings Bench at *Weſtminſter*.

§. 29.

Neither could they claim, or ever were inveſted by any Charter or grant of any of our Kings or Princes, or otherwiſe of any ſuch Priviledge or Liberty, nor was or is in England *any Law, or Uſage, or Cuſtom that a Parliament ſitting cannot be prorogued or diſſolved as long as any Petition therein exhibiteth remained unanſwered or not determined.*

IT being never likely to have been ſo in a well-conſtituted government of a Kingdom built & conſtituted upon ſound & ſolid principles of Truth & Right Reaſon as ours of *England* is, to have either often or always *Arduа* to be conſidered of, or of thoſe *Arduorum quædam* moſt eſpecially concerning the defence of the Kingdom and Church of *Eng.* which were not only to make an Act for the killing of Crows, of Paving of Streets, or that *ex ſe* or *per ſe* naturally or properly it could be or ever was in any Regal government in the Earth any Law or Cuſtom to perpetuate, or everlaſtingly to hold a Parliament, a thing altogether unknown, and unpractiſed by our Engliſh Monarchs, who thought it enough at three great Feſtivals in every year, to be attended with their Prælates, Nobility and Grandees, *viz.* at *Chriſtmas*, *Eaſter*, and *Pentecoſt*, and inquire into the State of affairs of the Kingdom which many times did occaſion as much of Advice and Conference amounted as to a Parliament, ſome addreſſes upon home emergencies being then made for Remedies of evils, happened or as fires been to be prevented, private petitions ſeldom interpoſing, if in the inferiour Courts of Juſtice, they might otherwiſe have Redreſs, for that had been expreſly forbidden by a Law of King *Canutus*, and thoſe Sumptuous Feaſts, and Solemnities being of no longer duration than the Feſtivals themſelves.

24 *H.8.ca.*10.

Sir *John Spelman in vita Ælferdi Regis. Et Mat. Paris.*

L. L. *Canuti.*

And in ſo many inferior Courts that gave Remedies the

the people had no need to trouble themſelves or their Kings in Parliament with Petitions, eſpecially when in the 9th year of the Raign of King *H.* 3. A peculiar
9 *H.* 3. *ca.* 11. Court was granted by our *Magna Charta*, and *Erected to give* Remedies to all the peoples Actions & Complaints not Criminal with a leſſer charge and attendance in an ordinary and more expedite courſe, and when they came with Petitions proper as they thought for Parliaments, they were to be tryed by Biſhops and Barons thereunto by the King appointed, who by the advice of the Chancellor, Treaſurer, Juſtices, and the Kings Serjeants at Law were, if they thought fit to receive them or otherwiſe to reject them, with a *non eſt Petitio Parliamenti*, and they that were received were many times referred by the King to his Privy Councel, and ſometimes with an *Adeat Cancellariam*, and at other times with a farther Examination to the Juſtices of the Courts from whence the complaints did ariſe or with a *reſpectuatur per dominum principem*, or referred to the Judges as againſt the multitude of Attorneys, as in the Raign of King *Henry* 4. And Petitions were not ſeldom anſwered with there is a Law already, or the *King will not depart from his Right.* And when the Acts of Parliament were made in the 4th and 36th years of the Raign of King *Edward* 3. wherein he granted that Parliaments ſhould be *holden once in every year if need* be, the Petitions of the people could not avoid the like Limitations or Tryals of them as the Laws required.

Ro. Parl. 18 E. 3. Certain Petitions having been exhibited by the Clergy to the King, it was agreed by the King, Earls, Barons, Juſtices, and other wiſe men of the Realm, that *the Petitions aforeſaid be put in ſufficient form of Law.*

Ro. Parl. 20 E. 3. A time was appointed to all that would exhibit any Petitions. The firſt part of a Petition the King granted, and to the reſt he will be adviſed.

The Commons did pray, that the beſt of every Countrey may be Juſtices of Peace, and that they may determine all Felonies, to which was anſwered for the 2d the *King will appoint Learned Juſtices they pray*, that the 40 *s.* Subſidy may ceaſe.

Unto which was Anſwered, the *King muſt firſt be moved.*

They pray that the King may take the Profits of all other

other Strangers Livings, as Cardinals and others during their Lives.

Unto which was anſwered, the King *taketh the profits and the Councel* (the Kings privy Councel) hath ſent their Petitions to the King (who was then buſied in his Wars in *France*.)

The Commons did pray, that all Petitions which be for the Common profit may be delivered in Parliament before the Commons, *ſo as they may know the Indorſement, and have Remedy according to the ordinance* of Parliament, unto which was given no Anſwer. Ro. Parl. 21 E. 3.

The Commons having long continued together to their great Coſts and miſchief, deſire Anſwer to their Bill (which in the Parliament Language ſignified no more than a Petition) *& leur deliverance.*

The Commons petitioned againſt the falſhood of ſuch as were appointed Collectors for 2000 Sacks of Wooll: Ro. Parl. 22 E. 3.

To which was anſwered, *This was anſwered in the laſt Parliament, and therefore Commandment was given to execute the ſame.*

And the like Anſwer given *ut prius* to their Petition touching Robbers and Felons.

They pray that all Petitions in this preſent Parliament may be preſently anſwered. To which was anſwered by the King, *after Eaſter they ſhall be anſwered.*

The Parliament in *Anno 6. E. 3.* began upon *Monday*, but foraſmuch as many of the Peers and Members were not come, the aſſembly required *the continuance of the Parliament* until the 5th of *Hillary* next following, which was granted. Ro. Parl. 6 E. 3.

The Commons praying the King to grant a pardon for the debts of King *John*, and King *Henry* the third, for which proceſs came dayly out of the Exchequer, Ro. Parl. 8 E. 3.

The King anſwered, *he will provide Anſwer the next Parliament.*

No Parliament being after ſummoned until *Anno* 13. of his Raign when the Lords granting to the King the 10th Sheaf of all the Corn of their demeſns, except of their bound Tenants the 10th fleece of Wooll, and the 10th Lamb of their own ſtore to be paid in two years, and would that the great wrong or Male Tolt ſet upon

Wooll be revoked, and that this grant turn not into a Cuſtom.

That the keeping of the Kings Wards Lands may be committed to the next of the kin of the ſame Ward.

That Remedy *may be found againſt ſuch as dying paſt away their Lands to defraud the Lords of their Ward-ſhips.*

The Commons made anſwer, that they knew and tendered the Kings Eſtate, and were ready to Aid the ſame, only to this new *device they durſt not agree without* further conference with their Countries, and ſo praying reſpite until another time, they promiſe to travel to their Countries.

Ro. Parl. 15 E. 3. Sundry of the Lords and Commons being not come, the Parliament was continued from day to day until the *Thurſday* following. The Archbiſhop of *Canterbury* having been in the Kings diſpleaſure, humbled himſelf and deſired his favour, and having been defamed, deſired his Tryal by his Peers, to which the King anſwered, he would attend unto the Common affairs and after hear others.

Ro. Parl. 17 E. 3. A Proclamation was made for ſuch as would exhibit any Petitions, and a day given therefore.

Ro. Parl. 25 E. 3. *Anno* 25. *E.* 3. The Commons pray, that proceſs of Outlawry ſhall be in debt Detinue and Replevin.

To which was anſwered, *the like motion was in the laſt Parliament which had the ſame Anſwer, and was then reaſonably anſwered.*

Ro. Parl. 45 E. 3. *Anno* 45. *E.* 3. it was agreed that ever Petition now exhibited may be by ſome of the Lords conſidered.

The Commons pray, that the *Extracts of Greenwax* may mention at whoſe ſuit ſuch Amerciaments were loſt in what Term, and what Plea, and between what parties.

To which was anſwered, let the ſame be provided the next Parliament (which was not ſummoned until in *Anno* 47. *E* 3.) In *Anno* 47. of his Raign after Subſidies granted the Commons prayed anſwers to their Petitions, which was granted, after the Chancellor had in the name of the King given them great thanks, he willed that ſuch of the Commons *that would wait on their Petitions might ſo do, and the reſt that would might depart, and ſo the Parliament ended.*

They

They pray *that Right may be done to every mans Petition.*

To which the King anſwered, *let that be obſerved which toucheth every private perſon,* our Kings and Princes having ever taken time to anſwer the petitions of their Subjects,

§. 30.

That in thoſe affairs peculiar only to ſo great and venerable an aſſembly which ſhould not be Trivial or proper to Lower and Leſſer Juriſdictions, aſſigned for the determining of Leſſer matters for the publick Eaſe and Benefit. Our Kings and Princes have a greater burden and care upon them, as Gods Vicegerents beſides that of Parliaments, to manage and take care of the Kingdom for the benefit and good of themſelves and their People.

FOR our Kings and Supream Magiſtrates, having many other as well neceſſary as ordinary, and Common affairs to look after, and have regard unto as the care of Peace at Home and Abroad, Defence and Protection of their People, Commerce, Intelligence and Correſpondence, with Allies and Neighbour Princes guard of the Seas, and reducing of Parliament Councels to ſpeedy Actions, could not admit a long conſult, which in our former and more happy Parliament Aſſemblies were ſeldom above forty days, and many times with leſſer periods of time found to be ſufficient to diſpatch the great and Important occaſions thereof.

For the care of three great Kingdoms and a multitude of Accidents dayly, hourly, or oftner happening, ordering and diſpoſing Competent Magiſtrates and Officers therein, obſervation of their well or ill managing their truſts, rewarding and encouraging the good, and puniſhment of the bad, with the adminiſtration of fit Remedies to all that complain of grievances and oppreſſions committed by or amongſt ſuch a multitude of people, with the very great difficulties of keeping Peace abroad with Neighbour Princes, and preſerving their own Subjects from being Injurious to theirs, or receiving wrong from others, may put a Prince into a neceſſity of having

1 *Reg. ca.* 3. *v.* 6, 8, 9.

having in his own person more than *Argus* his Eyes, or *Briareus* hands, and give him no, or a very small time of rest, & to ask of God what *Solomon* did when he took upon him the government of *Israel*, being a great People that could not be numbred or counted for multitude, give therefore thy Servant an understanding heart to Judge the people that he may descern betwixt good and evil, for who is able to Judge so great a People?

And with greater reason as being to govern a stubborn and Rebellious people, high minded and proud, with the riches gained thereby, many of whom have perplexed and troubled him and themselves with their needless and destructive Fears and Jealousies, without which the burden would not be so heavy as it is. And can never seem light if those Fault-finders and Quick-silver Brained State Polititians would but consider how great it is in the dayly exercise of that government, have hitherto made & kept us happy, all which put together, might be enough to load an Atlas, and would never be so well done, or prove so effectual for dayly and publick good if they should tarry either for the coming of Parliaments, or for long and perpetual, or disagreeing Parliaments.

And cannot be deemed to be of little moment or concernment if an estimate be taken of the cares, charge and troubles to preserve the publick Peace both by Sea and Land, Leagues and Alliances, Intelligence, Correspondence and Amity with Forraign Princes and States, the least breach of Peace with whom might disturb our Peace and Commerce abroad, and transport Invasions and War upon us at home, with sending and receiving of Embassadors, giving audiences & dispatches to theirs, and sending Instructions with ours, besides their sitting in Councel with their Privy Councel, commonly three times in every Week of extraordinary concernments, make not some addition thereunto, *Sundays* scarce excepted, and not that day or every day in every Week besides can pass, but he is troubled either with petitions for grants or favours, protection from oppressions, and redresses for greivances, either delivered by the petitioners themselves, or by one or both of the two Secretaries, or the four *Magistri Supplicationum & Libellorum Masters*, as they are called of Requests, who by their monthly turns of waiting, have commonly an audience

audience twice in every moneth, of our Kings and Princes, who are as the mercy ſeat upon Earth, the Pool of *Betheſda*, the *Aſculapius* Temple, the *Balm* of *Gilead*, *Aſylum* ſanctuary or refuge to help all the diſtreſſes and calamities of their people. And that in all our Parliaments ſince the beginning of the Raign of King *Edward* 3. they have *inter* their *quædam Ardua* taken alwaies into their care, not only thoſe of *England* but of *Ireland*, *Scotland*, *Gaſcogney*, *Guernſey*, *Jarſey*, and the Iſles, though they have no Burgeſſes or any other repreſenting for them as *England* hath had ſince the 48th year of the Raign of King *Henry* the third, which conſidered with the many cares of collecting and gathering in his Revenue and well ordering of his *Ærarium* or Treaſury, without which no King or Prince can be ſafe or great, and protect and defend himſelf and his people from Injuries and Contempt, which put all together may give Gods appointed watchman of our *Iſrael*, beſides their more weighted and occaſional buſineſs in Parliament, ſcarcely time to ſlumber or ſleep, or enjoy his natural refreſhments or divertiſements without the addreſſes and Importunities of his almoſt always wanting and complayning Subjects, which they that will be at leiſure to peruſe all the orders of himſelf and his privy Councel and treaſury References upon Petitions in the Secretary of State and Maſter of the Requeſts Books, and the Reports and Returns thereof, with all that are contained in the patent cloſe Rolls, fine and liberate Rolls of every year, beſides the Writs Remedial granted out of the Chancery, from which no man as our Laws ſay, is to return *ſine Remedio* thoſe of the Common or Ordinary ſort in every year amounting to no ſmaller a number than eighty Thouſand in a year, which by Law were anciently intended not to have been granted but by immediate Petitions to the King, howſoever are now diſpatched of Courſe, as it hath long been by his Majeſties not a few ſubordinate Officers, very much to the eaſe and relief of his People, who have ſo long enjoyed thoſe benefits and accommodations as thoſe Writs of Courſe, without the trouble either of our Kings, or their more eſpecial Court of Parliaments as Anciently as King *Canutus* Raign, who began his Raign in the year of our Lord 1016. and from thence ſo continued until the Raign of L. L. Cath.

Ro. Clauſ. *Johannis.*

King *John*, wherein a Writ of *Novel diſeiſin* is noted in the Margin of a Roll to be *de curſu*, (from whence the Curſiſtors in *Chancery* have taken, and do yet keep their Name, not a *Curſitando*, as *Fleta* (who wrote about the Raign of King *Edward* the 2d.) terms them *Juvenes & pedites* little Lads, who carried and fetcht Writs to and from the Great Seal, but *Clerici de Curſu* mentioned in the Oath, ordained to be given unto them in Parliament in *Anno* 18 *E.* 3. Inſomuch as when *Simon de Montfort* that Married the Siſter of King *John*, and either his Father or himſelf, had about that time been the deſtruction of the Proteſtant *Albigenſes* and *Waldenſes* in *France*, did in the time of the Impriſonment of King *H.* 3. and his Son Prince *Edward*, whom he and his Rebellious Partners had taken Priſoners in the Battle at *Lewes*, take an eſpecial care, that in the abſence of *Thomas de Cantilupo* the Kings Chancellor, the Kings great Seal being committed to the Truſt of *Ralph de Sandwich*, Keeper of the Kings Wardrobe, aſſiſted by *Hugh le Deſpencer* Juſticiar of *England*, and *Peter de Montfort* two ſpecial Rebels, to be kept until the return of the Chancellor, and that the ſaid *Ralph* ſhould Seal *brevia de Curſu*, but thoſe which were *de præcepto*, were to be Sealed in their preſence.

Selden. differt. ad Fletam & Fleta, ca. 13. 18 *E.* 3.

And when that Rebellion was afterwards broken, and *Simon de Montfort* and the moſt of his Rebel partners were ſlain at the more fortunate Battle at *Eveſham*, and the King reſtored to his Regality and Rights of government, he and his Succeſſors afterward did in all their Parliaments enjoy the power and authority of Monarchs in their great Councels or Aſſemblies of Parliament, wherein by reaſon of their great and important affairs in War a in *France*, *Scotland*, and *Wales*, they could not be able to be perſonally preſent, but ſummoned and held their no long laſting Parliaments by their Lieutenants or Guardians of the Kingdom for the ſhort continuance thereof.

§ 31.

§ 31.

That our great Councels or Parliaments, except Anciently at the three great Feſtivals, viz. Chriſtmas, Eaſter *and* Pentecoſt, *being* ex more *ſummoned and called upon extraordinary emergent occaſions, could not either at thoſe Grand and Chargeable Feſtivals, or upon Neceſſities of State or Publick Weal and preſervation* ex natura rei *continue long, but neceſſarily required* Prorogations, Adjournments, Diſſolutions *or* Endings.

FOR extraordinary occaſions being not common or ordinary, and the Summons or calling of fit and well capacited Perſons, to thoſe venerable or great Councels of Parliament, for purpoſed ſometimes eſpecily Limitted and Declared to be for Advice and Aid, not in *omnibus arduis* only, but in *quibuſdam arduis*, concerning the defence of the King, his Kingdom and the Church, always howſoever declared by the King himſelf, or ſuch as he appointed, and there being other great and little Courts enough in the Kingdom to diſpatch and adminiſter Juſtice, it could not but put our Kings and Princes in mind not to trouble their higheſt Court for ſmall and trivial Affairs, but to believe that *Canutus* an Ancient King of this Nation, who began his Raign in *Anno Domini* 1001. had reaſon by an expreſs Law to prohibit the troubling of him or his Parliament, or greateſt Councel with ſmall matters, when they might with more eaſe, leſs delay, expences and attendance, be determined at home, or in their proper Courts or Places in theſe words, *videlicet, neme de injuria alterius (Regi) quæritur niſi quidem in Centuria Juſtitiam conſequi aut impetrare non poteſt Centuria, autem Cominus quiſque ut quidem par eſt interſit aut ſaltem debito abſentiam luat ſupplicio*, and that Law might well be ſaid to have been made by that King *ſapientum Concilio*, which might occaſion the uſe of Receivers and Triers of Petitions conſtantly appointed by the King or his Houſe, or Councel of Peers, until our late times of Rebellion and Confuſion (that great Councel or Court, never being intended by our Kings or their Laws to be a ſtanding, often or continual Court for ordinary Affairs. The wiſdom of

L. L. *Canuti* 16.

of our Kings and their Houſe of Peers, having often rejected and not given any Remedies to Petitioners, that might more properly be relieved in Inferiour Courts.

Prynn Collection of the Ancient Parliaments.

For King *Offa* in the year 787. after the Incarnation of our Bleſſed Saviour Jeſus Chriſt had a 2d. Seſſion in his great Councel.

And therefore as all Parliaments have had very urgent and neceſſary cauſes of Calling and Summoning them, by their Kings, ſo they were to have their continuance and duration proportionable to the Buſineſs and Affairs, for which their Advice, Aſſent or Approbation were required, and even in the Eccleſiaſtical Councels, begun as early after the Incarnation of our bleſſed Redeemer Jeſus Chriſt as the year 446. The many Secular Buſineſſes, as making of Laws, and redreſſing of Grievances, in and by the Preſence and Aſſiſtance of our Kings, and many of the Nobility, continued until the *Norman* Conquerour, who ſeparated the Eccleſiaſtical and Civil Juriſdictions one from the other, and the Attendance upon Parliaments, were not a little troubleſom and chargeable to the Spiritual and Temporal Baronage, and therefore the Ancient Cuſtom of our *Saxon* Kings, was more eaſy and leſs burdenſom unto the Prelates and Nobility, when it required their conſtant and annal Attendance upon their Soveraign at his Court, at the three great Feaſts of the year, *viz. Chriſtmas*, *Eaſter* and *Whitſontide*, as the excellently Learned Sir *John Spelman* hath informed us, where the Biſhops might give an accompt (as in ſo many Parliaments which needed no Summons, Prorogations or Adjournments, for it was not to be doubted, but that almoſt every man might underſtand when thoſe Grand Feaſts or Solemnities began or ended,) what had been done, or was to be done in their ſeveral Dioceſſes, and the Earls within their ſeveral Counties and Provinces, of which Anciently they had a Subordinate Government, and were to render accompts thereof.

Selden. notæ in hiſtor. Eadmeri.

Sir *John Spelman in vita Ælfredi Regis.*

When though not præciſely the very ſame in number as to the Feſtivals of the year wherein our Old King *Alfred* and many of our ſucceeding Kings and Princes uſed to be yearly attended by their Biſhops, Earls and Nobility, whereby they might the better often underſtand the Circumvolutions and various Accidents in their

their Kingdom, in every year might have ſome reſemblance with that of the great *Charles* or *Charlemain* the hugely (as *Eginard* who was his principal Secretary witneſſeth) powerful, valiant and vertuous King of *France*, which Kings Daughter *Bertha* our Saxon King *Ethelbert* is ſaid to have married, and at her Inſtance upon the preaching of *Auguſtine* the Monk to have converted himſelf and all his Subjects to the Chriſtian Faith and Religion, and celebrated with great Solemnity and Magnificence the great Feſtivals of *Chriſtmas* and *Eaſter*, which with the addition of another being the Feaſt of *Pentioſt*, was never omitted to be ſumptuouſly kept by all our ſucceeding Kings until the latter end of the Raign of our K. *H.* the 3d. The *French* with great Solemnity, holding their Parl. or great Coun. at their 2 great Feſtivals of *Chriſtmas* & *Eaſter*. Unleſs any other great Affairs cauſed them to ſummon thoſe their great Councels at other times, which coming after the Raign of K. *H.* 3. to be ſo laid aſide by reaſon of their many voyages into *Normandy* long laſting & often Wars with *France* or *Scotland*, troubles & diſcords at home as Parliaments eſpecially when after the 48th year of the Raign of King *Henry* the third the attendance upon Parliaments was much more troubleſom to the Commons in Parliament after their admiſſions into that great aſſembly, though they had their charges and expences in going, tarrying and returning allowed them by King *Edward* the firſt which was firſt begun by *Simon Montfort* and his rebellious partners only in *Anno* 49. *H.* 3. When the King was their Priſoner in the caſe of two Knights of the Shire for the County of *York*, which thoſe that were afterwards permitted to be preſent by K. *Edward* 1. in the 22 year of his Raign, and in the Raign of our ſucceeding Kings did eſteem it to be a damage to to them in their other employments, affairs and loſs of time, better becoming their capacities until the impreſſions and effaſſinations of Pride, Fear, Flattery, Ambition and Self-Intereſt had within a ſmall time after their aforeſaid admiſſion into Parliament, incited or inticed them to be packt by *Roger Mortimer* Earl of *March*, in the Raign of King *E.* 2. to Grant Aids to help to advance his wicked and accurſed purpoſes, as is expreſſed in one of the Articles and Charges againſt the ſaid Earl in the 4th year of the Raign of King *E.* 3. or to ſet up for a Trade or Factory for themſelves or their Friends, or ſuch as they could purchaſe as a lamentable

Annal's Eginarde en le vie de Charlemaine Anno Chriſti, pag. 765. 736. & 64.

Ro. Parl. 4. E. 3.

experience hath of late years told us.

And we find no ſuch Doings or Factorings before that or 49. of King *Henry* the 3d. For King *Athelſtone* held a Parliament at *Exeter*, and the ſucceeding *Saxon* and *Daniſh* Kings, Summoned and held their Parliaments at ſeveral places, and Diſſolved, and Met again, as their occaſions, and the more weighty and extraordinary Affairs of the Kingdom required.

The *Norman* Conquerour, and *William Rufus*, and *Henry* the 1. other than at their aforeſaid Grand Feſtivals, did neither reſtrain themſelves to certain times or places, either as to the Summoning Continuing, Proroguing or Adjourning of their more than common or ordinary buſineſs, which requiring ſhort Councels, and an haſty Proſecution, or putting into Actions what their deliberate Advices had reſolved upon, could neceſſarily produce no long continuances, but were not ſeldom without Prorogations or Adjournments, as Mr. *Pryn* and all our Ancient and Contemporary Writers and Hiſtorians have plentifully teſtified.

Pryns Collection of the Ancient Parliaments.

9 H. 2. In the 9th year of the Raign of King *Henry* the 2d. A Parliament was called at *Weſtminſter*, where by reaſon of the frowardneſs of the Archbiſhop *Becket*, and his Suffragan Biſhops, the King was diſpleaſed, and the Parliament ended.

Daniel in the Life of King H. 2.

20 H. 2. In the 20th. year of the Raign of that King, he called a general Aſſembly of the Biſhops and Nobility at *Clarendon*, where *John* of *Oxford* the Kings Clerk was Preſident of that Councel, and a charge was given for the King, that they ſhould call to memory the Laws Eccleſiaſtical of his Grandfather King *Henry* the 1ſt. and to reduce them to writing, which was done, the Archbiſhop and Biſhops putting their Seals thereunto, and taking much againſt the Arch-biſhops will their Oaths to obſerve them.

33 H. 2. In the 33th year of his Raign, a Councel of Biſhops, Abbots, Earls, Barons, both of the Clergy and Laity was holden at *Gaynington ſub Elemoſinæ titulo vitium rapacitatis*, included therein ſaith *Walſingham*, requiring Aid towards the Wars of *Jeruſalem*, the Kings of *England* and *France*, reſolving to go thither in Perſon, the King of *England* taking upon him, and wearing the white Croſs.

Daniel ibidem 110.

Walſingham Typodigm. Neuſtriæ.

A Parliament was called at *Nottingham* by King *Richard* the firſt, after his return from his Captivity, which

Hovedon parte poſteriore.

continued

continued but four days; a Parliament in 7. *Johannis*; a great Councel or Parliament was holden at *London*, and Adjourned to *Reading*, whither the King not coming at the day appointed, it was three days after Adjourned to *Wallingford*. *Mat. Paris* 247.

In the Raign of King *Henry* the 3d. His Great Councels or Parliaments, were many times Prorogued or Adjourned, in whose Raign the Popes *Nuncio*, Summoning the Prælates of *England* to give an Aid to the Pope, they excused themselves, and alledged that the King was sick, and the Arch-bishops and Bishops were absent, and that *sine iis respondere non possunt nec debent*, whereupon the *Nuncio* endeavouring to adjourn that Convocation, they refused to come again after Summons without the Kings License, in *6 H.* 3. a Parliament, 7. a Parliament in 8. a 3. *Anno* 10. a 4th. *Anno* 11. a 5th. a Parliament in 16. another in 17. *Anno* 19. a Parliament, *Anno* 21. a Parliament, *Anno* 22. a Parliament, *Anno* 25. a Parliament, *Anno* 28. 2 Parliaments, *Anno* 35. a Parliament, 36. a Parliament, 37. a Parliament, in 38. another being called in *Easter* Term, which by reason of the absence of some Lords, who pretended they were not Summoned according to *Magna Charta*, was Prorogued to *Michaelmas* following, *Anno* 42. another Parliament at *London*, and for difficulty saith *Mathew Paris*, Prorogued to St. *Barnabas* day, and thence Adjourned to *Oxford*. *Mat. Paris* & *Daniel* in the Life of King *Henry* 3. *Mat. Paris*.

And thence in the same year adjourned to *London*, in *Anno* 48 two Parliaments were called at *London*, 51. a Parliament at *London*, *Anno* 53. another at *Marlburgh* (but in truth) in *Anno* 47. as appeareth by the Parliament Roll.

There was a Parliament at *Westminster* in the third year of the Raign of King *Edward* 1. another *Anno* 4. one at *Glouceſter* *Anno* 6. another at *Westminster* *Anno* 7. one *Anno* 10. 13. another at *Acton Burnel*, and one afterwards in the same year at *Westminster*, another in that year at *Winchester*, another afterward in the same year at *Westminster* *Anno* 18. two Parliaments were holden at *Westminster*, the Statute of *Quia Emptores terrarum*, *Quo Warranto* & *fines*, seeming to be made at several Parliaments or Sessions, Statutes of Vouchers, Wast and *de defensione Juris* made in *Anno* 20. *E.* 1. probably made in like

like manner *Anno* 21. *De his qui ponendi ſunt in Aſſiſis*, and another *ut ſupra de malefactoribus in Parcis*, the Statute of *Conſultation Anno* 24. A Parliament in *Anno* 25 at *London*, another at *Bury*, another at *Salisbury*, 26. At *York* held at another time a Parliament, *Anno* 27. a Parliament at *Weſtminſter*, and another *Anno* 28. for Perſons appealed, and a Parliament wherein were made the *Articuli ſuper Chartas Anno* 30. The Statute of *Quo Warranto*, 31. a Parliament, Statutes of *Conſpiracy and Maintenance* in *Anno* 33. And in the 34th year of his Raign, before the Writ of Summons could be executed, ſent another Writ to Adjourn the Parliament, and by his Writs, Prorogued or Adjourned ſome, if not many of thoſe other Parliaments.

5 E. 2. m. 17. Ro. Clauſ. dors.

In the 5th year of the Raign of King *Edward* the 2d. a Parliament being Summoned to be holden at *Weſtminſter*, it was Prorogued before they could meet, and Writs were ſent to ſignifie that they need not come.

18 E. 2. Ro. Clauſ. in dorſ. m. 15.

In the 18th year of his Raign, having Summoned the Earl *Marſhal* to be at a Parliament, to be holden at *Wincheſter*, *ſecunda dominica quadrageſſima prox. futur.* and being informed by ſome of the Nobility, that by reaſon of the ſhortneſs of time, they could not ſufficiently provide themſelves, Prorogued the Parliament to *Octabis Paſchæ prox futur.*

In the Printed Statute made at *Lincoln* in 9 *E.* 2. Mr. *Pulton* hath by his Modern Phraſe, mentioned that Statute to have been made by the Aſſent of the Prælates, Earls, Barons, and other *great Eſtates*, but the original Record is only *Prelats*, *Countz*, *Barons*, *& autres Gantz*.

And in 5 *E.* 3 it was miſtakenly tranſlated by the Abridger, that all the Eſtates in full Parliament (the King being not with his Power of Pardoning, and other his Rights of Soveraignty comprehended under that notion) did agree that none of them ſhould retain, ſuſtain, or own any Felon, or other Common Breaker of the Law.

And the whole Eſtate (whereof the King was not likely to be one) moved the King to be Gracious to *Edmond* Son of the late Earl of *March*, who asked *what they would have done, ſith King* Edward *the* 2*d. was murdered by the procurement of the ſaid Earl*, they Anſwered for certain Lands Entailed; the Kings Anſwer was, *that the ſame ſhould be done at his pleaſure.* In

In *Anno 6 E. 3.* The Parliament Adjourned (which was done by no other than the King) becauſe moſt of the Eſtates were not come.

The Archbiſhop of *York*, and his Suffragans, and Clergy came, but the Archbiſhop of *Canterbury* and his, did not by reaſon of the contention betwixt them for Superiority of bearing up their Croſſes, whereby the ſame was not only a loſs of an opportunity for *Scotland*, but alſo an inſupportable charge to the whole Eſtate, ſaith the Erroneous Abridger of the Parliament Records by a new Re-aſſembly, (which could not be intended of the King, who then was there reſident at his Palace of *Weſtminſter*,) to which they were Summoned

For the efficient Formal and Final cauſe of our Parliaments or great Councels being veſted in our Soveraign Kings and Princes, and in no other ſolely and incommunicably, none of their Subjects did or could ever rightly underſtand or believe that any of thoſe great Councels or Parliaments ſummoned upon great and weighty emergencies of State accidents or dangers which were to be ſuddenly heeded by preventing or avoiding imminent or Impendent evils by their wary and deliberate conſults put into a ſpeedy Execution, could ever receive a certain and continual fixation, or be obliged thereunto, for that beſides the fertility and growth of *Hydras* & innumerable miſchiefs and Inconveniences, not long ago wofully experimented, it would altogether contradict and be againſt the nature, reaſon and being of our Kings and Princes, ſummoning or calling of Parliaments according to the ancient and Laudable conſtitutions of our Nation. It being as unuſual as improper, to Summon or call Parliaments, *pro quibuſdam arduis*, when *Hannibal* is not every day *ad portas*, but ſometimes ruining himſelf and his Army at *Capua*, when our Kings have their *continuum Concilium*, private Councel and cares in a perpetual watch for the preſervation of them and their people, when the *Ardua* are but the well foreſeen Accidents and Dangers likely to happen and fit to be prevented, and it is not *pro omnibus arduis*, but *quibuſdam*, and the Civil Law can inform us, That *Accidens appellatur quod adeſſe aut abeſſe poteſt preter Subjecti corruptionem & de donat ante nupt.*

Accidens is defined to be, 1. *Quod Accidit.* 2. *Quod*

inheret Subjecto oppoſitum ſubſtantiæ. 3. Quod eſt extra eſſentiam rei ut neque intra attributa eſſentialia, neque definitione Eſſentiali exprimitur.

For a Fleet of well Rigged and furniſhed Ships doth not call a Councel, or cauſe all the Commanders, Captains and Pilots to come on board the *Admiral* for every little ſtorm or quarrel of the Winds and Seas.

Nor our Generals of an Army at Land call a Councel of War for every ſmall alarm or beating in of the Scouts.

And our Kings without Aſſent or Act of Parliament have appointed Terms or times for the orderly diſpatch of Law affairs in the diſtribution of their Juſtice in their many other Courts of Juſtice. And our inferior Courts Baron, and Leet and Hundreds have been contented with leſſer Periods.

And a ſtanding perpetual Parliament either in *Actu* or *potentia* was never yet known or uſed in *England*, when its Conſtitution, Writs of Summons and Uſage doth at all times and ſhould declare the contrary.

And as extraordinary Accidents, dangers and emergences in a Kingdom and Government, and their greateſt concernments are in no wiſe to be ſlighted, delayed or neglected, but ſuddenly endeavoured to be prevented, eſcaped, avoided or leſſened, though it be to no ſmall charge, attendance and trouble put upon the Lords Spiritual and Temporal and Members ſummoned and cauſed to convene and come from ſeveral parts remote or further diſtant, as in their Duty and Allegiance they are obliged to attend their Soveraign, and come to the General Conſult of a Parliament, ſo is it to be conſidered, that the Speculator and Protector of our Kingdom and Nation under God, (juſt allowances being always to be made of natural reſts and refreſhments, and competent care of health) cannot be Maſter, if he could, of much time, whilſt he is to encourage and maintain the Publick Good of his People, and Guard them from any evils or inconveniences which do or might aſſail them, in his care and diſtribution of Juſtice in all the complaints and Petitions of a numerous and mighty People, in the iſſuing out of Writs, Edicts and Proclamations, which do every day, and hour in the year, almoſt imploy his Miniſters of State and ſubſtituted in their ſeveral ſtations and qualifications,

Sundays,

Sundays, and the grand Feſtivals in every year not always eſcaping, and the not to be expreſſed almoſt perpetual cares of a Kingly and Monarchick Government, largely atteſted by the many Patent, Charter and Clauſe, Rolls, *brevia Regis*, Reſcripts, Commiſſions, Certioraris, Writs of *ad quod dampnum Inquiſitions cum multis aliis* in the Raigns of our Kings and Queens, now lodged and preſerved in the Tower of *London*, the Exchequer, and the Treaſures thereof, with the Records of the other Courts, with what elſe could be reſcued from the ravage of War and Time, together with the Memorials of their Secretaries of State, Privy Councel Table Books referrences, and the returns thereof, hearings of cauſes, complaints and orders and redreſſes thereof, with a neceſſary Inſpection and Survey in and of all the affairs and conditions of his people, and their well or ill being when the cares of government were ſo accompted to be an heavy burden for *Moſes* in his conduct of an affrighted and oppreſſed people of *Iſrael* driven out of *Egypt* with ſix hundred thouſand men on foot, beſides Women and Children with their Flocks and Herds in their travelling and unſetled condition through the wilderneſs, towards their hopes in the Promiſed Land of *Canaan*, with murmuring enough in the hearing and determining of their Suits and Complaints one againſt another, raiſed in *Jethro* his Father-in-Law ſuch a compaſſion of his Labour and Toil therein, as he told him, he would ſurely wear away both himſelf and the People, and therefore Councelled him only to reſerve hard matters unto himſelf, and appoint out of the People able Men, ſuch as fear God and love the Truth, hating Covetouſneſs, to Judge the People in ſmaller matters.

Exodus ca. 12. & *ca.* 19.

Ibidem ca. 18.

Wherein they that ſhall rightly conſider the cares of Kings and Princes, and the trouble of preſerving and doing good to a far greater number of People (not ſeldom as unto too many againſt their Wills) may think themſelves to be happy under the Protection of Gods Vicegerent, and bound to obey with cheerfulneſs his Providence therein, and that it was never intended by our leſs murmuring and more grateful Anceſtors, to make perpetual extraordinaries, or a ſtanding Court of Parliament, which could not fall within the Reaſon, Neceſſity or Practiſe of any good or rational Government,

ment, and if it could as it never can, muſt of neceſſity tear in pieces our happy beſt Eſtabliſhed Monarchy, and Sacrificing it to an inexorable miſery, leave our Poſterities to be toſſed and driven in and upon the *Waters of Strife*, Self-intereſt and Vain Imaginations; and in the fear, without any cauſe of an Arbitrary Power of our Kings, never like to happen over-haſtily, and madly run into the Arbitrary Power of a multitude, or ſome prevailing Party of plundering and pretending Reforms amongſt them, many of which is and will be the worſt of all Arbitraries of a Rude, Ignorant, Unreaſonable and Senſeleſs multitude, with the greateſt certainties of miſeries, as fatally as inevitably likely to happen.

§. 32.

That Parliaments or great Councels de quibuſdam arduis *concerniug the defence of the Kingdom and Church of* England *neither were or can be fixed to be once in every year or oftner, they being alwaies underſtood and believed to be by the Laws and ancient and reaſonable Cuſtoms of* England ad libitum Regis, *who by our Laws, Right Reaſon and all our Records and Annals is and ſhould be the only watchman of our* Iſrael, *and the only Judge of the neceſſity, times and occaſion of ſummoning Parliaments.*

Elſings Ancient and Preſent manner of holding Parliaments in *England.*

FOR notwithſtanding that by an Act of Parliament made in the 4th year of the Raign of King *Edward* 3. It was accorded that a Parliament ſhould be holden once in every year, and more often if need be; And in an other Act of Parliament made in the 36th year of the Raign of the aforeſaid King *Edward* it is ſaid, that for the maintenance of the Articles and Statutes (made in the ſaid Parliament of the 36th) and redreſs of divers miſchiefs and grievances which dayly happen, a Parliament ſhall be holden as at other times was appointed by a Statute, yet the latter Act of Parliament was but with reference to the former, and that imparted no more than that a Parliament ſhall be holden once in every year, and more often if need be, and howſoever that in the 50th year of the Raign of that King the Commons renewed their petition that a Parliament might be holden, that Knights of the Parliament might be

4. E. 3. *ca.* 19.

36 E. 3. *ca.* 10.

choſen

choſen by the whole Counties, and that the Sheriffs might likwiſe be without brocage in Court, the King only anſwered to the Parliament, there are Statutes made therefore to the Sheriffs, there is anſwer made to the Knights, it is agreed that they ſhall be choſen by common conſent of every County, and in *Anno primo R.* 2. petitioned the King that a Parliament might be yearly holden, in a convenient place to redreſs delays in Suits, and to end ſuch Cafes as the Judges doubt of, which the Conſequences after will ſhew, were only to be at the pleaſure and will of the King, as his prudence, care and neceſſity of himſelf, and the publick good ſhould neceſſarily adviſe if the true Interpretation of both thoſe Acts of Parliament, could, as it never can bear any other ſignification, for although that which next followed that Act of Parliament, made in the 4th year of the Raign of that King, was in the next year after, yet that which ſucceeded that was in *Anno* 6 and not printed. Ro. Parl. 50. E. 3. & 1 R. 2.

For the Parliament was for a few days Adjourned, and being after holden at *York*, was for a ſhort time likewiſe Prorogued, and afterwards the Aſſembly being not come, was Adjourned until the 5th of St. *Hillary* next following at *York*, and from thence again to a Re-aſſembly at the ſame place, at the end of which Re-aſſembly, the Commons had Licenſe to depart, and the Lords were commanded to attend him the next day, at which time the Parliament was Diſſolved. 6 E. 3.

The Duke of *Cornwal*, the Kings Eldeſt Son as Guardian of *England*, by the Kings Letters, Patents, held the Parliament at *Weſtminſter*, and a *memorandum* made to Summon the Parliament at the 5th. of St. *Hillary* next following. And the Commons upon the Kings demand of an Aid, alledge that they cannot agree thereunto without further conference with their Countries, pray a reſpite of time until they return from thence. 13 E. 3.

For that ſundry of the Lords and Commons were not come, the Parliament was Adjourned for ſome few days. 20 E. 3.

In regard the Commons had ſo long continued at their great coſts and expences, they deſire Anſwer of their Bills, and a deliverance. 21 E. 3.

Lionel Duke of *Clarence* the Kings Son, held the Parliament. 25 E. 3.

29. E. 3. The Parliament for certain cauſes was Adjourned until *Monday* next, after the Feaſt of St. *Edmond* the Martyr.

45 E. 3. After the Petitions of the Commons not before Anſwered, were read, and anſwered before the King, Lords and Commons, the King Licenſed the Commons to depart, and the Parliament ended.

1 E. 3. And although in a Parliament holden in *Anno* 4. *E.* 3. *ca.* 14. It is accorded that a Parliament ſhall be holden every year, and more often if need be, yet in *Anno* 5. there being one, there enſued none after until 9. in 10. there was one, from thence until 14. none, in 15. another, after which none until 18. after which none until 20. thence none until 23. none after until 25. thence none until 27. and in that of 25. were 6. ſeveral Seſſions, wherein ſeveral Acts of Parliament were made, in *Annis* 28. & 29. Parliaments were holden, but none afterwards until 31. thence none until 33. thence every year until 36. In which an Act was made, that for maintenance of the ſaid Articles and Statutes in the ſaid 36 years ordained and redreſs of divers miſchiefs and grievances which may happen, a Parliament ſhall be holden every year, as another time was ordained by a Statute in 4 *E.* 3. *cap.* 14. in 37. & 38. Parliaments were holden, from thence none until 45. another in 47. another in 50.

R. 2. *In Annis* 1, 2, 3, 4, 5, 6, 7. none, in 8, 9, 10, 11. and in every year after, during his Raign a Parliament.

H. 4. 1, 2. Parliament in one year, in 2. a Parliament, in 3. one, in 4, 5, & 6. one, in 7. none, in 8. one, in 9 one, in 10. none, in 11. one, in 12. none, and in 13. one.

H. 5. 1, 2, 3, 4, 5. Parliaments none in 6. but in 7, 8. & 9. were Parliaments.

H. 6. 1, 2, 3, 4. were Parliaments, but none in 5. & 7. in 10, 11. Parliaments, in 12. & 13. none, in 14, 15. were Parliaments, in 16, 17. none, in 18. one, in 19. none, in 21. & 22. none, in 23. a Parliament, in 24. none, a Parliament in 25, in 26. none, in 27, 28, & 29. were Parliaments, in 30. none, in 31. one, in 32 none, in 33 one.

E. 4. 1. one, in 2. none, in 3. & 4. were Parliaments, in 5. & 6. none, in 7. & 8. Parliaments, in 9, 10. & 11. none, in 12. one, in 13. none, in 14. one, in 15, & 16. none, in 17. one, but in 18, 19, 20, 21, none, in 22. one.

But

But 1 Parliament, though he lived a few years after. R. 3.

In ſome part of whoſe Raign, many of the Acts of H. 7. Parliament being not to be found, the firſt that appears amongſt the Printed Acts of Parliament, was in the 3. year of his Raign, 2 Parliaments were held in that year, and a 3. in the 4th. year of his Raign, none in the 5. & 6. but one in the 7th. and no more until the 11th one in the 12th. and no more until 19.

1. And thence none until the 3. and after every year H. 8. a Parliament until the 8th. year of his Raign, (In which the like misfortune happened unto the Parliament Rolls for many years, as it did in the Raign of his Father King *Henry* the 7th.) in 14, & 15. there appeareth to have been an Act of Parliament, and from thence no more until the 21. and thence a Parliament in every year until 30. and in that year none, but in 31. and thence every year a Parliament until 36. wherein was no Parliament, but in 37. one.

1, 2, 3, 4, 5, 6, 7 A Parliament in every year. E. 6.

1. *Mar.* 2. Seſſions, 1. & 2. *Philippi & Mar.* & 3, 4. Mar. & 5.

A Parliament was in the firſt year of her Raign, and Eliz. from thence none until 6. and thence none until 8. from whence none until 13. thence to 15. and afterwards none until 18. and from thence none until 23. thence none until 27. none in 28. and but one in 29. none in 30. one in 31. thence none until 35. thence none until 39. thence none until 43.

1. one, in 2. none, Parliaments in 3, & 4. none in Jac. 5. & 6. from 7. none until 18. thence none until 21.

In *Primo Caroli Regis* 1. in 2. none, in 3 & 4. ano- Car. 1. ther.

No complaints being in thoſe Internals of Parliament made for want thereof, and that bleſſed Martyr having granted to the great inconveniences of his Regality and neceſſaries of his Monarchicque, more than was fit for his Subjects to ask which was dearly after paid for after by many a ſuffering Loyal Family in the late long Rebellion, did in the granting of the Act of Parliament the 16th. day of *November*, 1640. for a Triennial Parliament to be holden in every 3d. year, declare unto them in theſe words, *viz.*

Exact Collection of Proceedings in the Parliament from the 3d. of *November* 1640. until the Moneth of *June* 1641

My Lords, and you the Knights, Citizens and Burgeſſes of

of the Houſe of Commons, you may remember when both Houſes were with me at the Banqueting Houſe at Whitehall, *I did declare unto you two Rocks I wiſhed you to eſchew, this is the one of them, and of that conſequence that I think never Bill paſſed here in this Houſe of more favour to the Subjects than this is, and if the other Rock be as happily paſſed over as this ſhall be at this time, I do not know what you can ask, for ought I can ſee at this time, that I can make any queſtion to yeild unto, therefore I mention this to ſhew unto you the ſenſe that I have of this Bill, and obligation as I may ſay that you have to me for it, for hitherto, to ſpeak freely, I have had no great incouragement to do it if I ſhould look to the outward face of your actions or proceedings, and not to the inward intentions of your hearts, I might make queſtion of doing it.*

Hitherto you have gone on in that which concerns your ſelves to amend, and yet thoſe things that meerly concern the ſtrength of this Kingdom, neither for the State, nor my own particular.

This I mention, not to reproach you, but to ſhew you the State of things as they are, you have taken the Government almoſt in pieces, and I may ſay it is almoſt off the hinges.

A Skilful Watch-maker to make clean his Watch, he will take it aſunder, and when it is put together, it will go the better, ſo that he leave not forth then one pin in it.

Now as I have done all this on my part, you know what to do on your parts, and I hope you ſhall ſee clearly that I have performed really what I expreſſed to you at the beginning of this Parliament of the great truſt I have of your affections to me, and this is the great expreſſion of truſt, that before you do any thing for me, that I do put ſuch a confidence in you.

Which was ſuch an Aſſent to an Act of Parliament to ruin himſelf and his Monarchy, as never was asked or impoſed upon any King or Prince, not a vaſſal unto any Prince or Republick, or by any King granted unto his Subjects, that did not intend to make himſelf to be either a Subject to his Subjects, or a fellow Subject unto he could not tell who, which that enſnared neceſſitated, and every where almoſt betrayed Prince, did never intend or think to be rational, or any thing but an oppreſſion

preſſion and force put upon him by too many of his Rebellious Subjects, when he was ſo pinched and ſurrounded with Perils and Hazards of the greateſt importance, either as to the ſaving of himſelf, or his Royal Poſterity and three Kingdoms, when the Faction of 5, or 6, of ſome ambitious and unquiet Spirits backt with a lurking *Scottiſh* contrived Univerſal Rebellion, the villany of ſome of the unquiet nonconforming Clergy, and the Beſtial ignorance of the Rabble had forced him to a condeſcenſion of an Act of Parliament in the 16 year of his Raign, *that if he did not ſummon a Parliament once in every three years, his Chancellor or Keeper of the Great Seal of* England, *or Commiſſioners thereof upon their Oaths after a certain prefixion of daies, and under a penalty to be incapable and ſuffer ſuch Cenſures as both Houſes of Parliament ſhould inflict, ſhould be obliged to do it, wherein if he* 16 Car. 1. *or they ſhould in like manner fail, any* 12 *or more of the Houſe of Peers ſhould do it, and cauſe Writs under the great Seal of* England *to iſſue forth for the ſummoning of an yearly Parliament, all Clerks of Offices that were uſed to officiate therein were commanded, under the pain of incapacity and forfeiture of their Offices, and ſuch other Penalties as that terryfying Parliament ſhould ordain, if any Sheriff, Mayor or Bayliff diſobeyed, he or they were to ſuffer the Penalties of a Præmunire, and the people were to proceed to an Election, and ſend thoſe that they Elected to the Parliament to be holden once in every year wherein the King was to be perſonally preſent, and he or both— Houſes within the year might adjourn, prorogue or diſſolve the ſame, the Houſe of Peers might appoint their own Speaker, and the Houſe of Commons theirs, the King might nominate by Commiſſion one or more to take of the Members of the Houſe of Commons in Parliament the Oaths of Allegiance and Supremacy, and they that refuſed to be puniſhed by the Houſe of Commons, they that ſought to diſturb or hinder thoſe Orders for frequency of Parliaments, were to endure the Penalties of Præmunire, take no benefit by the Laws, be incapable of any Inheritance, Legacy, Gift or Grant, and be diſabled to purchaſe by themſelves or any other, or capable of any Office, Uſe, or Truſt.*

§. 33.

That all or any of the Members of the Houſe of Commons in Parliament are not properly, or by their original conſtitution intended or otherwiſe entituled, or properly, truly, juſtly, lawfully ſeized or to be ſtiled or termed Eſtates, *neither are to be ſo underſtood or believed to be; and being to be no otherwiſe than ſubject to a temporary Election, and by the authority of their Kings Writs paid their wages and charges, by thoſe that ſent and elected them, can have no Juſt or Regal Right thereunto.*

FOr that the Title or uſage of the Word *Eſtate* cannot bear or carry any other acceptation, interpretation or ſignification than a party or condition of men elected by a Community compoſed of ſeveral ſorts of men anciently and originally (the Electors and the Sheriffs themſelves excepted) as their Procurators or Attorneys to be preſent in Parliament *ad conſentiendum iis*, to conſent unto, obey and perform ſuch things as the King by the advice of the Lords Spiritual and Temporal ſhould be pleaſed to ordain.

For the word *Status* or Eſtates truly, legally and properly underſtood either now or anciently, can have or receive no other ſignification, Etymology, Interpretation, common uſe, proper or true underſtanding or meaning than,

Status eſt duplex publicus eſt dignitatis & honorum l. cognitionem l. 5. F. De extraordinariis cognitio privatus eſt hominis conditio ipſum privatum concernens & ſpectatur in tribus in libertate in Civitate in familia l. Fin. F. de cap. dim: Ideo ſtatum mutare dicitur qui mutat illud Jus quod habet in iſto caſu ſervi ſtatum non habent Cal. 9. Unde dici ſolet ſervus caput non habet Minſh. ſtatum unde capitis diminutio quod ſtatus diminutio Meulf. p 71. Statum mutant liberi omnes qui vel Civitatem vel libertatem, vel familiæ Jus amittunt Cal. 5. Status perſonarum conditionem ſignificat ſicut Ingenui libertini ſervi Cal. 9.29. prat. Status dicitur conditio qualitaſve perſonarum qua quis plurimum poteſt, appellatur in Inſtitutionibus Jus perſonarum Cal. 6. Gradum pro exiſtimationis & honoris loco uſurpari, notum eſt hinc in Gradum reponere eſt diſjectum reſtituere Spieg. prat.

Spilmanni Gloſſar.

Gradus

Gradus in Agone literario tres ſunt ut doctores legum & ſeq. Baccularii Licentiati Doctores.

Status Curia comitatus Aula Regis Jacobus de vitriace lib. 3. pag. 1126. de ſapphedino primo die recepit ipſos (legatos Chriſtianorum) in prima ſcala de Cairon ubi ſemper eſt ſtatus ejus Statutarii ſunt Magiſtratus qui ſtatuta odunt, vel horum obſervationes invigilant, vel ſecundum ea judicia ſua odunt Charta Annum 1322. infraſcripta ſtatuta conſcripta per Dominos Juriſperitos electos per dominos ſtatutarios Bulla p. p. data Lugduni in M. paſtorali Eccl. pariſienſi lib. 19. ca. 15. Excommunicatos nuncios, Statutarios et Scriptores ſtatutorum ipſorum. Alia Bonifacii 9. p. p. Anno 1391. Apud Goldaſtum to. 2 conſtit. Imper. Poteſtates vero Conſules ſtatutarii & Scriptores Statutorum prædict. nec non conſiliarii locorum ipſorum qui ſecundum Statuta & conſuetudines memoratas judicarent, &c. Du Friſne Gloſſar.

Status, Statura Gregorius Turon. lib. 4. Hiſt. cap. 24. Celſum Patriciatus honore donavit, virum procerum ſtatu, in ſcapulis validum lacerto robuſtum, &c. Mon. Sangallenſis l. 1. cap. 19. de quodam Ep. qui cum familiaritate illius animari cæpiſſet in tantam progreſſus eſt proterviam, ut virgam auream incomparabilis Caroli, quam ad Statum ſuum fieri Juſſit, feriatis diebus vice baculi ferendam pro Epiſcopali ferula improvidus ambiret.

Status, Sedes, Statum facere ſedere morari, Ethelwerdus lib. 4. cap. 3. Attamen oppreſſi laſſatu deſiſtunt pugne barbari & ſterilem obticient tunc victorie Statum.

Status pro Stallo Monachorum & Cannnicorum in Eccleſia Galbertus in vita Caroli Com. Flandr. n. 72. Status ſimul & ſedes Fratrum dejectæ ſunt. Idem. n. 98. Inter columnas quippe ſolarii ſpecula & Status ſuos ex ſcriniorum aggoribus & cumulis ſcamnorum proſtituerant, Stephanus Tornacenſis Epiſt. 12. Aſſignetis ei ſtatum in Choro, ſicut habere ſolet, ſedem in Capitulo Locum in Refectorio ſtatutum de Inſtallatione Canonicorum Bononienſium in Morinis: Aſſignaturq; ſibi ſtatus in Choro ſecundum qualitatem & capacitatem recepti, & locus in Capituli.

For they muſt have no ſmall influence upon the minds and reaſon of mankind, as well as that which they deſigned to have upon the *Eſtates* of thoſe that would be ſo credulouſly fooliſh as to believe them to be a third *Eſtate*, to be added unto the former two very ancient *Eſtates* in times of Parliament, *viz.* *The Lords Spiritual and*

and Temporal, and it muſt be a ſtrong and ſtrange kind of deluſion as much or more enchanting than the Magicians or Southſayers of *Egypt* that could not expound the meaning of *Pharaohs* dreams or far exceed the Art of the Painter that made *Zeuxis* Grapes ſo very ſemblable, or like unto them as the Birds were made Fools, and eſſayed to eat them, or how ſhould or would be ſelf created *Eſtates* think themſelves to be ſuch *Eſtates*, when if any ſuch could have been, or ever had been, they muſt rather have been the *Eſtates* or ſuch *Eſtates* that ſent them, but not to be ſuch *Eſtates*, but only as their Procurators, Attorneys or Deputies, or what an efficacious ſtrange Art muſt it be, that could when miracles have been long ago ceaſed, make a ſhadow paſs for a Subſtance, thoſe that are at home no ſuch Eſtates, but they that were only ſent, are no ſooner once admitted in Parliament, but ſuddenly and *ex ſe* they become parts of that they would call the third Eſtate, when they that ſent and helped to make them Members of Parliament, know of no ſuch Grandeur or title beſtowed upon them, how, or by whom when they were in Drink or Fudled at the time of the Election, or Drinking Cheating day of various and ſenſeleſs bribing, bargaining partialities, ſhamefully exerciſed in thoſe our late times of Rebellion and Confuſion; when ſome that were Electors (the Sheriff of the County being not himſelf to be Elected, but commanded to cauſe the Election fairly to be made of Burgeſſes for Cities or Towns juſtly ſending Knights of the Shires, Citizens or Burgeſſes to Parliament (not having a freehold Eſtate under forty ſhillings *per Annum*, is at the ſame time thraſhing in another Mans Barn, or at Plow, or at ſome dayly ſervile labour, and neither he or his *High-Crown-Hatted*-Wife knew of any ſuch honour fallen upon them, or how ſuch an *hic* or *ubique Eſtateſhip* veſted in him, or how he that is repreſented ſhould be leſs in degree or honour than he that ſent and helped him to be Elected, and it will be difficulty enough for the third *Eſtate* Aſſerters to aſſail them from Perjury and Treaſon in their endeavouring to uſurp upon their *Soveraign*, and to be coordinate with him, or to free them from the forfeiture of their Lands and Eſtates unto their Meſne Lords.

And it is very probable that *King Henry* the third in the

the 52 year of his Raign, and his Parliament did not intend to make the Common ſort of People or ſmaller part of the Nation to be equal with the *Archbiſhops*, *Biſhops*, *Abbots*, *Priors*, *Earls*, *Barons*, and *Religious Men* and *Women*, who were by that Statute exempt from coming to the Sheriffs turn, or being ranked with them as Eſtates; the Sheriffs turns being as Sr. *Edward Coke* ſaith ordinarily compoſed of the *Bayliffs of Lords* of *Manors*, Servants and other Common ſort of people, that Court having no Juriſdiction to try any Action other than under forty Shillings value. 52 *H.* 3. *ca.* 10. *Cokes* 4th part Inſtitutes.

And there could not certainly be a greater parcel of wickedneſs, credulity and ignorance hardly to be decerned or diſtinguiſhed, how they or any of their Adherents can harbour or give any entertainment to the leaſt *Embrio* or parcel of opinion, that all, or any of the Members in the Houſe of *Commons* in *Parliament*, are a third *Eſtate* when they themſelves did ſo little believe it as in their frequent Petitions in Parliament unto their *Kings* they could give themſelves no greater a Title than your *Pauvrez Communs* your *Leiges*, and being asked their advice in Parliament touching ſome eſpecial matters, denied to give it themſelves, but referred it unto the Councel of his *Lords Spiritual and Temporal*, at another time refuſed becauſe they had no Skill or knowledge in the affairs of Peace or War, (the principal parts of government) and in the 13th year of the Raign of *King Edward* the third upon that Kings demand of an unuſual Tax upon the Common people, as they thought, prayed leave to go into their ſeveral *Counties* to conſult thoſe that ſent, and returned again, with an Aſſent and Anſwer; And when King *Henry* the fourth appeared to be offended with them, came ſorrowfully before him, and humbly begged his pardon, could not as it appears in ſeveral of our Parliament Records, when the protection of themſelves, their Poſterities and Eſtates were deeply concerned, give their *Kings and Princes* any Aids or Subſidies without the conſent of the *Lords Spiritual and Temporal*, that in the Raign of King *Henry* the fourth could not protect Sir *Thomas Hexey* one of their Members from an Accuſation and Puniſhment by the *King*, that in the Raign of *King Henry* the ſixth could not ſupport their own *Clerk*, and in the Raigns of ſeveral of our Kings *Walſingham Hypodigma Neuſtriæ in vita E.* 1. *& Ro. Parl.*

Co. 4th part Inſtitutes.

have been enforced to pray Aid of them by their Writs out of their *Chancery* to protect themſelves and Mœnial Servants in time of Parliaments. That *Queen Mary* cauſed 39. of their Members to be indicted in the Court of *Kings Bench* for being abſent from Parliament, wherein none of them though *Plowden* a very learned Lawyer was one, durſt adventure to plead or inſiſt upon any their pretended *Soveraignty* of Parliament, or that they were a third *Eſtate* or part thereof, That *Queen Elizabeth* one of the greateſt and moſt vertuous of Princeſs that ever weilded a Scepter, and ſate in our *Engliſh* Throne could upon no greater an offence of *Bromley and Welſh* two of the Knights of the Shire for the County of *Worceſter* then endeavouring to Petition the Houſe of the Lords to joyn with them to ſupplicate her Majeſty to declare her Succeſſor, did forbid them to go to the Parliament, but keep their Chambers, and ſhortly after committed them Priſoners in the *Tower of London*, and did not long after, ſitting the Parliament, Arraign and try in her Court of *Kings-Bench* for High Treaſon Doctor *Parry* a Member of Parliament, and cauſed him to be drawn,

19 R. 2.

hanged and quartered, and may read that in *16 R. 2.* in an Act of Parliament made againſt Proviſions at *Rome* under a Penalty of *Præmunire* the Commons by the name of the Commons of *England* three times repeated not ſtiling themſelves a third *Eſtate*, petitioned the *King* that the *Eſtates*, *viz.* The Lords Spiritual and Temporal (herein acknowledging the Prælates to be of great uſe to the King) might declare their reſolutions to ſtand to and abide by the *King*; and had never preſumed ſo high as publickly to print and declare that the Soveraignty is inherent and radicated in the people, if they had not plundered or ſequeſtred the Devils Library of Helliſh Inventions, Tricks and new found devices, or met with ſome manuſcript of them at ſome *Auction*, a Trick of trade newly found out by the *Stationers*. And likewiſe prayed the *King*, and him require by way of Juſtice, that he would examine the *Lords Spiritual* and *Temporal* ſeverally, and all the *Eſtates* in Parliament, to give their opinion in the caſes aforeſaid, whereupon the ſaid *Archbiſhops*, *Biſhops*, and *Prælates* being ſeverally examined, made their Proteſtations that they could not deny or affirm that the *Pope* had power to excommunicate or tranſlate

Biſhops

Biſhops or *Prælates*, but if any ſuch thing be done by any, that it is againſt the *Kings Crown* and dignity. And the *Lords Temporal* being ſeverally examined, anſwered, that the matters aforeſaid were clearly in derogation of the *Kings* Crown and Dignity. And likewiſe the Procurators of the Lords Spiritual being ſeverally examined, anſwered in the name and for their Lords as the Biſhops had done, whereupon the King by the Aſſent aforeſaid, and at the requeſt of the *Commons* did ordain and Enact the ſaid *Statute* of *Præmunire*.

And might be aſſured that in *Holland* & the united *Provinces* the chief of the confederate *Eſtates* with thoſe that repreſent the *Reiſtres Schaff* or Nobility do uſually ſit at the *Hague* in *Holland*, & many times go home or ſend to the Towns and places they repreſent to receive their orders or approbation, who ſometimes ſend their Deputies unto the *Eſtates* at the *Hague* with their reſolutions, ſo as there is a wide and great difference betwixt thoſe which our ambitious high-minded parcel of people that would be called Eſtates, and thoſe that are the true and real Eſtates of the principality of *Ghelders* and County of *Zutphen*, Earldoms and Counties of *Holland*, *Zealand*, *Utrecht*, and *Friziſs*, *Omland*, and the *Eu*, and *Lovers*, who did ſo unite and confederate themſelves together with all thoſe that would allye and unite with them, as they promiſed not to infringe or break any of each of their Priviledges or Immunities (which our Members of the Houſe of Commons in Parliament have largly done, by ejecting, turning out and impriſoning one another, putting others in their places, and making them receive their illegal Sentences and unjuſt Judgments upon their knees) neither ſhall raiſe or make any Taxes or Impoſts upon each other without general conſent (which ours would be ſo ſtiled Eſtates, have as largely done, as 48 Millions of Engliſh Money have amounted unto) and in caſe any thing be done to the contrary, it ſhall be null and void, the *Lords Lieutenants* and *Governors* of the ſaid ſeveral Provinces and *Stadtholders* thereof, and all the ſubordinate Magiſtrates and Officers ſhould from time to time take their Oaths to perform the ſame, and the Governors of the *Cities*, *Towns* & *Places* in the ſaid united Provinces do in eſpecial caſes ſend unto their *Stadtholders* their Aſſent or Ratifications before

Aitzema's Revolutions of the United Provinces.

fore any thing be acted, which our pretending third *Eſtates* did not do, when they arraigned and murdered their King at the ſuit of the people, when that bleſſed Martyr King *Charles* the firſt aſſerted that they were not a tenth part of the people, and he might truly have ſaid that there were not above one in every 200 of the deluded people of many Millions of his Subjects (*Cromwels* Souldiers and Army, and the murdering Judges only excepted) and not all of them neither that deſired his death, or being ſo wickedly uſed.

And can never find any reaſon, record or preſident to warrant the impriſoning, ſecuring or ſecluding as they have lately called it, any of their own Members, nor are to judge of the Legality or Illegality of the Election of their Members, nor of any the pretended breach of their Priviledges, of which the King and Lords were anciently the Judges as is evident by 16 *R.* 2. *n.* 6. 12 *R.* 2. *n.* 23. 1 *H.* 4. *n.* 79. 4 *H.* 4. *n.* 19, 20. 5 *H.* 4. *n.* 71. 78. *& ca.* 5. 8 *H.* 4. *n.* 13. *Brook* Parliament 11. 8 *H.* 6. *n.* 57. 23 *H.* 6. *n.* 41. 31 *H.* 6. *n.* 27, 28. 36. 14 *E.* 4. *n.* 55. 17 *E.* 4. *n.* 36. *cum multis aliis*, but were always Petitioners to the King for Publick Laws and redreſs of grievances or in the caſe of private perſons, but very ſeldom petitioned unto, and then but by ſometimes the *Upholſters* and *Merchant* adventurers of *London*, and though they had the free Election of their Speakers granted, yet they were to preſent them to the King, who allowed or refuſed them, and ſometimes cauſed them to chuſe another, never did or could of right adminiſter an Oath to witneſſes or others to be examined by the whole Houſe of Commons as the Lords in their ſubordinate Judicative power uſually did, had no Vote nor Judicature in Writs of Errour brought in Parliament returnable only before and to be judged by the King and his Houſe of Lords, nor yet in criminal Cauſes upon impeachments wherein the Lords are only ſubordinate to their Soveraign to be Judges.

Mr. William Pyn.

Cokes 4th part Inſtitutes.

So as the improbability, impoſſibility and unreaſonableneſs of the ſuper-governing power and pretended Supremacy of the Houſe of Commons in Parliament will be as evident as the Abſurdity and Frenzy thereof will appear to be by all our Records, Annals, Hiſtorians and

and Memorials, which will not only contradict the follies of thoſe that are ſo liberal to beſtow it upon them, but may give us a full and undeniable aſſurance that the repreſenting part of part of the Commons of *England* in Parliament from their firſt Original in 49 *H.* 3. when their King was a Priſoner to a part of his Subjects, & they could then repreſent none but Rebels, did not certainly believe themſelves to be either one of the 3. *Eſtates* of the Kingdom, or *co-ordinate* with their King, when in the firſt year of the Raign of King *Edward* the ſecond as *Walſingham* a Writter of good accompt then living and writing after the 49th year of the Raign of King *Henry* 3 hath reported the people ſeeking by the help of the Biſhops and Nobility to redreſs ſome grievances which did lye heavily upon them, *ad Regem ſine ſtrepitu accedentes rogant humiliter ut Baronum ſuorum Conciliis tractare negotia regni velet quibus a periculis ſibi & regno imminentibus non ſolum cautior ſed Tutior eſſe poſſit.* *Walſingham Hiſt. E. 2. p. 97.*

And when they had any cauſe of complaint or any grievances caſt or fallen upon them by their fellow Subjects, or thrown or impoſed one upon another, did not calumniate their Kings by publick calumnies or *Remonſtrances* (for who would not in the courſe of ordinary friendſhip, or in the caſe of Children or Servants to their Parents or Maſter take it to be an ill piece of love or duty publickly to abuſe and rail at their Kings and thoſe which were invited for helps in Councel worſe than the accurſed *Chams* diſcovery of his Father *Noahs* Nakedneſs, or *Jobs* inſtead of comfort better cenſuring friends) did it in no worſe expreſſions than *Walſingham* hath related, *viz.* *Archiepiſcopi Epiſcopi Abbato Priores Comites Barones & tota terræ Communitas monſtrant domino noſtro Regi & humiliter rogant eum ut ea ad honorem ſuum & populi ſui ſalvationem velit corrigere & emendare.* *Walſingham in Hiſtor. E. 1. 71.*

And when they long after found themſelves as aforeſaid ſtiled one of the 3. *Eſtates* in ſome of the Parliament Rolls ſo as aforeſaid mentioned could not by any *Grammar* or reaſonable conſtruction, or by any Rules of any truth, ſenſe or reaſon believe the King to be one of the 3. *Eſtates* ſpoken of or at all intended in the Journals or Rolls of Parliament, or underſtood ſo to be by the parties ſpeaking or ſpoken of or unto, the Sandy and britle foundation of which ill digeſted opinion being

not likely to get any room in any ſerious mans well weighed conſideration. Being only made uſe of as a Trick of Faction and Sedition to exclude the Biſhops and Lords Spiritual, on purpoſe to put the King in their place, whereby to make him co-ordinate with them, and the Houſe of Peers, and help to juſtifie as much as they could, the fighting againſt Impriſoning, Arraigning and Murder of their King.

And being Elected and Introduced into the Houſe of Commons, as Procurators only, and repreſenting for ſome part, not all of the Commons under their proper limitted conditions, *ad faciendum & conſentiendum iis*, to ſuch matters and things as in that greateſt of Councels in the Kingdom, ſhould be ordained by the King and the Lords Spiritual and Temporal there Aſſembled for the good and welfare thereof, under the Oaths of Allegiance and Supremacy, did not ſtile themſelves Eſtates, or think they were thereunto entituled, when at the Coronation of their former and ſucceeding Soveraign Kings and Princes, they were *in ſuo genere*, though with different Species, Degrees, Eſtates & Capacities comprehended under the notion of the *vulgus* or common People, for until the 11th. year of the Raign of King *Richard* the 2d. they had no Title of Eſtates allowed or given unto them, and if they could make any Title thereunto, the Lords Spiritual or Prælates were the firſt, the Lords Temporal and Nobility the 2d. under and ſubordinate to their King Supream Head and Governour, and the Commons who were *diſpares* to the Peers of *England* the 3d. who did notwithſtanding long after in their Petitions in Parliament, take it to be honour enough to call themſelves by no higher a Title than the Commons. The Kings Leiges, and his *pouvrez Leiges*, the word Eſtate, State, or one of the Eſtates in Parliament, being by the Invention or Phraſeologie of their Clerks or Regiſters by haſty abbreviation, and in and but ſometimes ſaving of labour in the aforeſaid 11th year of the unfortunate Raign of King *Richard* the 2d. by Uſe and Cuſtom faſtned upon them as men, and many learned Authors have often by an *Incuria* done, when in their writing of Ancient and Former things or times, they have made uſe of words or expreſſions of the preſent times, as more intelligible, as Duel for Battle or Camp

Camp Fight, Parliament for our ſeldom or greateſt Councels, hint for intimation or ſpoken of before, the laſt of which being known only to have been here introduced in the late Covenanted *Scotch* and *Engliſh* Rebellion, by Mr. *Alexander Henderſon*, or the late Senſeleſs, Proud, Falſe and Inſignificant Titles of Honour, or Reſpect of an *Alderman*, aſſumed by ſuch as paid a great Sum of Money as a Fine, not to be an *Alderman*, and ſo became *revera* no *Alderman*, with as little Reaſon as the Citizens Wives of *London*, as low as the Meal-man's and Bricklayer's, do think themſelves clowniſhly handled or dealt with, if they be not at every word ſtiled *Madam*, *cum multis aliis his nugis Curialibus*, of the miſuſage and impropriety of words miſapplied, without any conſideration had of the intention and true meaning of the Authors, and the times wherein they lived, and the mode and uſage of the words in former and latter times made uſe of, for the better ſignification and expreſſion of mens meanings, either writings, reading, or *modus loquendi*, *viz.* by an ignorant *Bellum Grammatical*, make Rebellion to be as neceſſary as *Religion*, and *Rebellion* to be *Religion*. Who could not without the Power or impulſe of dreaming, or ſome wild imagination be Eſtates in very deed, when they took and ſued for their Wages in coming to the Parliament, tarrying and returning, and have been told by ſome of our Kings in Parliament, that they were but Petitioners, which they then did not contradict, which the higher ſphered Lords in Parliament, never did more than enjoy a Priviledge Anciently allowed, but rarely made uſe of by them in the hunting and killing a Deer, as they travelled through any of the Kings Foreſts or Parks, in their way to adviſe and ſerve their Kings, in thoſe their greateſt of Councels, and in our Statutes and Acts of Parliament, penned by the Judges and Councel of our Kings, in their former and much better Uſage and Cuſtom of drawing and penning our Acts of Parliament, of late left only to be framed by Sollicitors, and the Proſecutors and Contrivers thereof, ſo as the word Eſtates is rarely to be found therein.

Cromptons Juriſdiction of Courts. tit. Parliament.

And ſo little were the Parliamentary Commons of *England* obliged to the old approved good Writers and Hiſtorians, as *Aſſer Menevenſis*, *Ingulfus*, *Roger Hoveden*, *Gervaſius*

Gervaſius Tilburienſis, *William* of *Malmesbury*, *Matthew Paris*, *Brompton*, *Knighton*, and many others contemporaries to our *Brittiſh*, *Saxon*, *Daniſh* and *Norman* Kings and their Succeſſors, and if their Teſtimonies will not paſs with theſe Record Scrap-mongers who would wreſt and wring every thing they can meet with to their *Seditions* and Treaſon hatching by falſe and wicked gloſſes and miſinterpretations, the Parliament and Statute Rolls that do every where give evidence as an everlaſting truth unto what that bleſſed Martyr King *Charles* the firſt hath ſo truly aſſerted in his Anſwer to the Rebel Parliament 19 Propoſitions, when the Secretary or Sir *Edward Hyde* by a miſtake had allowed them the Title of Eſtates, which being decryed by the Lawyers and Loyal Members of the Loyal Parliament at *Oxford* then attending, *viz.* Sir *Orlando Bridgman*, Sir *Geffry Palmer*, and Sir *Robert Holborn*, had not ſo paſſed but that the poſt could not be recalled, yet howſoever the Rebellious party at *London*, that were ſo willing to catch at that (as they thought) advantage, might have ſeen read in the words cohærent in the ſame Paragraph an exception in the words following in a Parentheſis, *viz.* but never intended to have any ſhare in the government.

The Kings Anſwer to the Parliaments Propoſitions in *Huſbands* Collections.

And they that heretofore did take it for an eſpecial honour to wear many of the Peers and Nobilities Liveries, and glad to be reteyners to them, were ſo modeſt as to be unwilling to aſſume the Title of an Eſtate in Parliament, when in Parliament conferences, paſſing of Bills, Meſſages, or other occaſions the Houſe of Peers ſate covered that third Eſtate if it could be ſo called, ſtood and are to ſtand uncovered.

And Mr. *Pryn* one of their greateſt Champions that did more than he ſhould to magnify their Cuſtoms and Priviledges, was at length conſtrained to acknowledge that in all the Parliaments of King *Edward* the third *Richard* the ſecond, *Henry* the fourth, fifth, and ſixth, *Edward* the fourth, and *Richard* the third, the *Commons in Parliament*, never claimed nor exerciſed an ſuch Titles or Juriſdictions, as of late years have been uſurped by them or given unto who never until they ran mad with Rebellion, who never preſumed or pretended to make, Print or Publiſh any Act, Ordinance or order, whatſoever relating to the People or their own Members, without the

Pryns Preface to the exact Abridgment of the Records in the *Tower* of *London*, Publiſhed in the year 1657.

the King and Lords Aſſent and Concurrence, never attempted to impoſe any Tax, Tallage, Charge, Exciſe or Duty upon the people without the King and Lords conſent, never adventured to appoint any Committee or ſubcommittee to hear and determine any particular buſineſs or complaint without the report thereof to the whole Houſe of Commons, without the privity or Aſſent of the Houſe by way of tranſmiſſion or impeachment to their ſuperior Authority and Judicature of the Houſe of Peers never attached, fined, impriſoned or cenſured any perſon by their own authority without the Lords, as they have hundreds of late years done.

Cromptons Juriſdictions of Courts, and *Cokes* 4 Inſtitutes.

And that very famous Ancient and Great Republick of *Venice* Crowning their *Doge* with an Imaginary Crown for *Venice* and two other real and very Crowns, the one for *Cyprus* and the other for *Candy*, both Kingdoms *revera* in their actual poſſeſſion, yet as the leſſer in the greater bound up and captivated under a ſtrange diverſity of Forms and Cantons hath not the Priviledge to read a Letter without the Privity or overlooking of the grand *Conſiglio* or *Venetian* Nobility, hath beſides their many great Varieties and Fragments of Magiſtracy, Offices and Parts of Governments, cut into as many Parcels as they can to give every one as much Reliſh and hopes as their largely extended dominions can afford, are not without at the firſt 150, ſince augmented into the number of 3000 of thoſe which they ſtile Nobility, and makes a principal part of the firſt quality or concern in their government, as our Biſhops and Lords Temporal, the former being Barons as much as the latter for their lives, although not as the latter in Fee or Fee-Tail, and amongſt the many particles or pieces of their mangled government can allow their *Doge* to be the Superior, and more than Co-ordinate with all or any of the *Avogardoit di Communite*, & the *Pregadi* that are to guide their chief affairs of Eſtate, and conſiſt of 120 Noblemen, ſome whereof have their rights of the *Lottery* or *Balloting Box*, their greateſt Councel conſiſts of the *Doge*, *Conſiglieri* the *Conſiglio di dioci*, the third *Conſigliera de baſſa*, the three Lords of the *Raggioni Vecchio*, the three Lords of the *Raggioni Nuevo* the *Cattaveri* or the Inquiſitors of truth, the two *Cenſori*, the three *Proviſori delli dieci Savii* (or ſpecial wiſemen) and that which ſhould

Republick of *Venice*.

be the wonder, the Colledge of the *Savii* are to have no Vote in the *Pregadi*, and they of the *Pregadi*, can take no reſolution except there be in it four *Conſiglieri*, or at leaſt 60 of the Nobility be of the *Quorum*, or that they do ordinarily give order to their Embaſſadors in all parts of the World whither they have been ſent to Regiſter, and give an accompt to their *State* or *Senate*, or whatever they can be called of the the ſeveral forms of government in other Nations and Kingdoms, and yet omitting the Feudal the beſt of all governments happily experimented in the moſt of their Neighbour Nations and Kingdoms ſo pertinatiouſly as they do, and have ſuch an *hotch potch* or *Gallimaufry* of mixtures as we ſay in *England*, as if they were again to be diſlocated or taken in pieces, that great republick planted betwixt the two great Empires of the *Weſt* and *Eaſt* would in all probability be on a ſudden in as great miſery, diſtreſs and confuſion, or greater than it was when they fled from the Ravage and Fury of the *Huns* and *Vandals* into the Arms and Boſom of the *Gulf* of the *Adriatique* Sea, and Mr. *Selden* hath informed us that in *England* in the *Saxons* time, and long after the middle *Thanes* and the *Valuaſers* were not honorary as the greater *Thegnes* or Barons were.

Seldens Titles of Honour.

And it may be worthy our obſervation, that although Mr. *Pryn* in his careful recapitulation before mentioned of the Lords Spiritual, the Biſhops, and the Earls and Barons, the Lords Temporal, & excluding the Commons until after th 49th year of the Raign of King *Henry* 3. doth altogether negatively conclude that there were no *Commons* then preſent, yet when he comes to rectify, as he calleth it, the miſtakes of the abridger, doth in *Anno* 5. *E.* 3. relate that the *Eſtates* in full Parliament do agree that they ſhall not retain, ſuſtain or avow any Felons or Breakers of Houſes, which the King having commanded before, is truly and properly to be underſtood of the Lords Spiritual and Temporal; And in another place of the ſaid record mentioneth that the whole Eſtate prayed the King to be gracious unto *Edward* the Son of *Roger Mortimer* Earl of *March*, which could not inforce the King to be one of the *Eſtates*, or that there were any other or more *Eſtates* than the Lords Spiritual and Temporal.

Ro. Parl. 6. E. 3.

Anno

Anno 6. *E.* 3. were Proclaimed the Articles agreed in the laſt Parliament, and 1, 2, 3. in another Parliament intended to be at *York*, it is ſaid that moſt of the *Eſtates* were abſent, Sir *Jeffry le Scroop* by the Kings Command ſhewed the cauſe of ſummoning the Parliament, but for that moſt of the *Eſtates* were abſent, which might conſiſt only of Lords Spiritual and Temporal, and the King ordained new Writs of Summons to be iſſued. In a reaſſembly at *York* in the ſame year, Articles of the laſt Parliament were proclaimed by the *Steward* and *Marſhal* of the King and the Commons (not then ſaid *Eſtates*) had licenſe to depart, and the Lords commanded to attend until the next day, at which time the Parliament was diſſolved.

In *Anno* 8. *E.* 3. It was petitioned that no pardons be granted unto outlawed perſons by any Suggeſtions or means, but only by Parliament. 8. E. 3.

To which the King anſwered, the Statutes made ſhall be obſerved.

That all men may have their Writs out of the Chancry, paying nothing but the fees for the Seals, without any fine according to the great Charter *nulli vendemus Juſtitiam*, unto which the King anſwered, ſuch as be of *courſe* ſhall be ſo, and ſuch as be of *grace* the King will command the Chancellour to be therein gracious.

Neither doth it appear that the Lords Spiritual, who in the Raign of King *Stephen*, held three ſeveral Councels in Secular Affairs, and of King *Henry* the 2d. were ſundry times Mediators employed by him in Treaties betwixt him and the King of *France*, or that the Lords Temporal, the other part of the Houſe of Peers and Baronage of *England*, ſubordinate under their King and Soveraign, did ever take eſteem or believe the Members of the Houſe of Commons in Parliament, jointly or ſeparately to be a 3d. *Eſtate* of the Kingdom, for they neither had or enjoyed that Title or ſuppoſed Power. In *Anno* 17. of King *John*, in the Rencounter or Rebellion at *Running Mede*, when in a pacification there made with ſome of his robuſtious Barons, it was agreed, that if the *Conſervators* (none of them which were then nominated to be the *Conſervators* of the Kingdom, being then called the *Eſtates*) could not obtain a juſt performance of that conſtrained agreement by a complaint made unto the

Dr. Brady in his Hiſtory of *England*, from the *Roman*, *Britiſh*, *Saxon*, *Daniſh* and *Norman* times, until 49 *H.* 3.

the King, or his Chief Juſtice of the Kingdom, *populus* not then dreamed to be a 3d. *Eſtate*, might *dum pravare* with a *ſalvo* or exception to the Perſons of him, his Wife and Children do it, and were not ſo imagined to be, when the Popes Legat had by his Excommunication of that King, and Interdiction of the uſe of Chriſtianity in the whole Nation, conſtrained him to do Homage to the Pope, by an Inveſtiture of the Sword, Crown and Scepter, and an yearly Tribute of 1000 Marks for the Kingdom of *England* and *Ireland*, to the Church and See of *Rome*, that Engine or Trick of Soveraignty Inhærent in the People, or a 3d. *Eſtate* repreſenting for them in Parliament, not then being thought neceſſary for a ratification of thoſe that would magnifie themſelves with that Factious and Fictitious Title of a 3d. *Eſtate*, which they durſt not adventure to make uſe of, or mention in our *Magna Charta*, and *Charta de Foreſta*, freely granted by King *Henry* the 3d. his Son, and that more than thirty times Confirmations, for the firſt whereof they believed they had made a good bargain, when they had given unto that King the 15th. part of their moveables, and were not a 3d. Eſtate, or called ſo in the 42 year of the Raign of that King, when the Derogatory Act of Parliament to Kingly Government, was enforced from him at *Oxford* in the 42 year of his Raign.

Anno 13. *E.* 3. The Biſhop of *Durham*, and Sir *Michael de la Poole* came from the *King* with a Meſſage to the whole *Eſtates* (which probably were then none other than the Lords Spiritual and Temporal) concerning his Victories atchieved in *France*.

The Lords upon the Kings want of Money, grant to the King the tenth Sheaf of Corn (their Bond or Bond-Tenants excepted) their tenth Fleece of Wooll, and tenth Lamb for two years, the *Commons* then not ſtiled *Eſtates*, require time to go into their Countries to adviſe with thoſe that ſent them, the Commons (not *Eſtates*) return their Aſſent, and make ſeveral demands with a requeſt, that the Sheriffs of every County, may in the next Summons to *Parliament*, return two *Knights* girt with *Swords*.

A general Proclamation was made, that all Perſons having Charters of Pardon, ſhould reſort to the Sea-coaſt for the Kings Service, upon pain to forfeit the ſame.

The

The Commons do give the *King* for his Relief 30000 Sacks of Wooll, upon conditions expreſſed in a pair of Indentures, whereupon the Lords promiſed to ſend to the King, to know his pleaſure, after long Debating, the Commons promiſe to give preſently to the King 2500 Sacks of Wooll, ſo as if the King liked the conditions aforeſaid, the ſame ſhould run in payment, if not they would freely give it to him.

Remembrances of things not finiſhed in one Parliament, to be done in another.

They granted unto the King, the ninth of their Grain, Wooll and Lamb, for two years to be Levyed out of all Towns-men, the ninth of their Goods, of ſuch as dwelled in Foreſts and Waſts, a Fifteenth upon condition the *King* would grant their Petitions, contained in a Schedule, (ſo willing were the Commons to obtain, and get what they could from the King, and ſo little did they think themſelves to be a 3d. *Eſtate*, or an entire, or any part of *Soveraignty*.)

Sundry *Biſhops*, *Lords* and *Commons*, were appointed daily to ſit, until they had reduced the aforeſaid Grant into the form of a Statute, and was agreed upon by the *King*, and the whole *Eſtates*, which could not be expounded, that the *King* was one of thoſe *Eſtates*, or the other, any more than the *Lords Spiritual* and *Temporal*, leaving the *Commons* to be no more than they were *in ſuis gradibus*, no 3d. *Eſtate*, which beginneth, *To the Honour of God*, &c.

And ſuch Articles as were to continue but for a time, the *King* exemplified under the great Seal, *Know ye that with our Biſhops, Earls*, &c.

Certain *Biſhops* and *Lords* requiring to be ſaved harmleſs againſt the *Duke of Brabant* for great ſums of Money, wherein they ſtood bound for the *King*, if the *Duke of Cornwal* married not the Daughter of the ſaid Duke, which was granted, and all which Letters Patents were inrolled in Chancery.

And for that the *King* in his Stile was named *King of Frante* and had changed his Arms whereby,

The *Abridger* of the Parliament Rolls or Records, or Mr. *Pryn* the Rectifier or miſuſer of them hath given us a curtailed Abbreviation of the Parliament Remembrances, in 14 *E.* 3. wherein all that the Abridger

or Rectifier was pleaſed to give us, was that Subjects were no longer bound to him than as King of *France*, the Kings Letters Patents of Indempnity were granted beginning *Edwardus, &c.* Know ye that where ſome people intend, *&c.*

When as in the Printed Statute according to the Parliament Record (for ſo it may better be underſtood to have been the Abridger or Rectifier ſo miſcalled might have ſeen that the King by the Title of King of *England* and *France* and Lord of *Ireland*, by his Letters Patents under the great Seal of *England*, reciting that whereas ſome people did think that by reaſon the Realm of *France* was devolved to him as Right Heir of the ſame, and for as much as he is King of *France*, the Realm of *England* ſhould be put in Subjection of the King and of the Realm of *France* in time to come, he having regard to the Eſtate of his Realm of *England*, and namely that it never was nor ought to be in Subjection to the obeyſance of the Kings of *France*, which for the time have been, nor of the Realm of *France*, and willing to provide for the Surety and Defence of the Realm of *England*, and of the Leige people of the ſame doth will and grant and ſtabliſh for him and his heirs and Succeſſors by the Aſſent of the Prælates, Earls, Barons and Commons (wherein if the Commons had in themſelves an inhærent Right of Soveraignty, they would neither have been troubled with any ſuch fears of the *French* Government, or needed any ſuch proviſion againſt it) of his Realm of *England* in this preſent Parliament in the 14th year of his Raign of *England* and firſt of *France*, that by the cauſe or Colour of his being King of *France*, and that the ſaid Realm to him pertaineth, or that he came to be named King of *France* in his Stile, or that he hath changed his Seal or Arms nor for the Commandments which he hath made or ſhall make as King of *France*, his ſaid Realm of *England* nor the people of the ſame, of what Eſtate or condition they ſhall be, ſhall not at any time to come be put in Subjection nor in obeyſance of him or his Heirs nor Succeſſors as Kings of *France*, nor be ſubject or obedient, but ſhall be free and quit of all manner of obeyſance, as they were wont to be in the time of his Progenitors. 14 E. 3.

For that Trick or Engine of metamorphoſing the Soveraignty

veraignty of the King into that of the people and by excluding the Biſhops and Lords Spiritual out of the Houſe of Peers in Parliament, unto which *ab ultimo Antiquitatis ſeculo* ſince Chriſtianity aboliſhed Paganiſme they were as juſtly as happily entituled and put our Kings and their Regalities in their places whereby to create unto themſelves a co-ordination, and from thence by the Intrigues of Rebellion a Soveraignty in themſelves, which was not in the former and better Ages ever entertained or believed by our Parliaments when no Original pact or agreement hath been or can yet be diſcovered how or when the Houſe of Commons came to be entituled unto their pretended inherent Soveraignty, or to be ſeized thereof by their repreſentation of the people, or from whom they had it, or who gave it unto them, when it may be believed God never did it, for he that never uſed or was known to contradict himſelf, hath in his holy word declared and ſaid, *per me Regis regnant*, which ſhould not be miſinterpreted and believed to be conditionally, if the people ſhould approve or elect them for which the Gentlemen of Egregious Cavillations if they would be believed, ſhould ſearch and ſee if in all the Books of God and Holy Writ they can find any revocation of what God himſelf hath ſaid and often declared, for an undeniable truth, or that he ever diſcharged and renounced it by as infallible Acts and Teſtimonies.

But if any one that believes Learning and the inquires after Truth, Right Reaſon, and what our impartial Records and Hiſtorians will juſtify how or from whence that Ænigna or myſtical peice of Effaſcina of the Members of the Houſe of Commons making themſelves to be a 3 Eſtate of the Kingdom, and a Creed of the late Factions and Rebelling ever to be deplored Parliament, or from what *Lernean* Lake or Spawn of *Hydras* came. It may beſides the Pride and Ambition of many that were the fomenters or Nurſes of them be rationally underſtood to have none other ſource or Original beſides *don Lancifer* himſelf then for Sir *Edwards Cokes* unhappy ſtumbling upon his reaſonleſs admired forged Manuſcript and Impoſture called *Modus tenendi Parliamentum* in *Anglia* in King *Edward* the Confeſſors Raign, there having been neither any Author or Record as Mr. *Pryn* hath truly obſerved to Juſtify or give any credit thereunto,

unto, but was as he hath abundantly prove a meer Figment and Impoſture framed by *Richard* Duke of *York* 31. and 32. *H.* 6. by the Commons Petition and the Duke of *Yorks* Confederates by the Rebellion and Inſurrection of *Jack Cade* and his Rebellious levelling party to make him that Duke of *York* Protector and Defender of the People, which ended in the dethroning of King *Henry* 6. and though Mr. *Hackwel* of *Lincolns-Inne* a learned Antiquary hath adventur'd to ſay that he hath ſeen an Exemplification of a Record ſent from *England* into *Ireland* to eſtabliſh Parliaments there after the form or Method of that *Modus*, yet when the learned Archbiſhop *Uſher* preſſed him much to ſee it, he could neither ſhew the exemplication nor the Record it ſelf, neither of which are yet to be ſeen in *England* or *Ireland*, only Sir *Edward Cokes* Copy remains, but when or from whence he had it he was never yet pleaſed to declare.

13. *E.* 3. At the requeſt of the whole *Eſtate* (which may moſt certainly have been thought to have been made to the King, not to themſelves) thoſe Articles were made Statutes, and the Conditions were read before the King, and the Chancellor, Treaſurer, Juſtices of both Benches, Steward of the Kings Chamber and others were all ſworn upon the Croſs of *Canterbury* to perform the ſame.

17. *E.* 3. The cauſe of ſummoning the Parliament being declared amongſt the other things to be touching the Eſtate of the King (who was often abſent in the Wars of *France*) and for the good government (which they whom the erring Abridger hath ſtiled the 3 *Eſtates*, *viz.* 1. The Lords Spiritual. 2. The Lords Temporal.) 3. The Commons in Parliament were to conſult of ſo as if the Commons could be a third Eſtate, the *King* and his *Eſtate* and the government were, neceſſarily and only then and always to be underſtood and believed to be the 4th Eſtate principal, Superior and Independent.

18 *E.* 3. At which Parliament and Convention ſundry of the *Eſtates* ſaith, that ill Phraſing Abridger or Tranſlator whoever he was, were abſent whereat the King was offended and charged the Archbiſhop of *Canterbury* for his part to puniſh the defaults of Clergy, and he would do the like touching the Parliament whereof Proclamation was made, and *being not abſent, was neither likely to be angry*

Ro. Parl. 15. E. 3.

gry with himſelf, or reſolving to puniſh himſelf.

The Chancellor in full Parliament declaring the cauſe of ſummoning the Parliament, *viz.* The Articles of the Truce with the *French* King & the breaches in particular thereof, the whole *Eſtates* (miſtakenly ſo ſtiled) were willed the King that willed or commanded being no part of them unleſs it could be believed that himſelf willed or *commanded himſelf* as well as others) to adviſe upon them, & give their opinion thereof by the *Monday* next following.

20 *E.* 3. After the reading of the Roll of *Normandy*, and that the King of *France* his deſign to extirpate the *Engliſh* Nation, the Meſſengers that were ſent by the King required the whole *Eſtate* (no ſuch Title being in the Original (whereof the King could then be no part if it was ſaid to be the whole Eſtate without him, for he could not be with them when he was abſent in *France*, and had ſent his Meſſengers unto them) to be adviſed what Aid they would give him for the furtherance of his Enterpriſe.

And Mr. *John Charleton* one of the Meſſengers aforeſaid likewiſe bringing Letters from the Biſhop of *Durham*, Earls of *Northampton*, *Arundel*, *Warwick*, *Oxford*, *Suffolk*, and *Hugh le Deſpenſer*, Lord of *Glamorgan*, to the whole ſo miſnamed Eſtate of Parliament (when the King could not be one of them, not at all being preſent) purporting that whereas the King at his Arrival at *Hoges* in *Normandy* had made his Eldeſt Son the Prince of *Wales* Knight, he ought to have of the Realm forty Shillings for every Knights Fee, which they all granted and took Order for the ſpeedy levying thereof.

25 *E.* 3. Sir *John Matravers* pardon was confirmed by the whole miſſettled *Eſtates* (whereof the King could not be accompted any of them) for he granted the pardon.

28 *E.* 3. *Richard* Earl of *Arundel* by Petition to the King praying to have the Attainder of *Edmond* Earl of *Arundel* his Father reverſed, and himſelf reſtored to his Lands and Poſſeſſions upon the view of the Record, and and the ſaid *Richard* Earl of *Arundels* Allegation that his Father was wrongfully put to death, and was never heard, the whole Eſtates ſaith, that ill Tranſlator adjudged he was wrongfully put to Death, and Reſtored the ſaid Earl to the benefit of the Law (which none could do

but the King who was petitioned, and having the ſole intereſt in the forfeiture, was none of thoſe which were wrongfully called the whole Eſtates)

37 *E.* 3. Where it is ſaid that at the end of the Parliament the Chancellor in the preſence of the King ſhewed that the King meant to execute the Statute of Apparel, and therefore charged every State to further the ſame (the King could not be underſtood to charge himſelf.)

After which he demanded of the whole *Eſtates* (ſo as before miſtaken) whether they would have ſuch things as they agreed on to be by way of *Ordinance* or of *Statute*, they anſwered by way of *Ordinance*, for that they (being to take benefit thereby) might amend, the ſame at their pleaſure. And ſo the King having given thanks to all the as aforeſaid miſcloped, *Eſtates* for their pains taken, licenſed them to depart, which ſhould be enough to demonſtrate that the *Granter* and *Grantees* were not alone or conjoynt, and that the King giving thanks to the *Eſtates* did not *give it to himſelf.*

42 *E.* 3. The Archbiſhop of *Canterbury* on the Kings behalf gave thanks to the whole (in the like manner miſ-termed) *Eſtate* for their Aids and Subſidies granted unto the King (wherein aſſuredly the Archbiſhop of *Canterbury* did not underſtand the King to be any part of the whole *Eſtate* which the *King gave thanks unto.*

4 R. 2. The Commons by their Speaker deſiring a full declaration of the Kings neceſſity, require him to have conſideration of the Commons poor Eſtate.

The King declared to the Commons that it was as neceſſary to provide for the ſafety of the Kings *Eſtate* as for the Common-wealth.

Anno 6. Regis Richardi 2. after Receivers and Triers of Petitions named, Commandment was given that all perſons and Eſtates (which imported no more being rightly underſtood than conditions or ſorts of men) (miſcalled as aforeſaid) ſhould the next day have the cauſe of ſummoning the Parliament declared.

11 *R.* 2. The Parliament was ſaid to have been adjourned by the common Aſſent of the whole Eſtates (the firſt time of the Lords Spiritual and Temporal being called the *Eſtates* without or with the Commons joyned with them no ſuch names or words, appellations

or

or Titles were either known or in uſe, nor any ſuch words or Titles as Eſtates being to be found in the Originals or Parliament Rolls before *Anno* 11 *R.* 2. for no more appeareth in the Original than in and under theſe expreſſions, *viz. Et meſme le vendredi auxint a cauſe & ce feſt & ſolempnite de paſch eſtoit a progeno ii coveient le Roi les Seigneurs & tautx autres entendre a devotion le Parlement & coe aſſent le toutz Eſtats le Parlement eſtoit continez del dit vendredi tanque Lindy lendemain de la equinzieſme de Paſch adonquez prochem enſuent & commandez per le Roy a toutz les Seigneurs & Communs du dit Parlement.*

Quils ſeroient a Weſtminſter le dimengo en la dite quinzieme de paſcha a pluſtaid & ſur ceo noevelles briefs furent faiots a toutz les Seigneurs ſomons au dit parlement de yeſtre a la dite quinzieme ſur certaine peine a limiter per les Seiguro qui ſeroient preſents en dit Parlement a la quinzieme avant dite le quel Limdy le dit Parlement fuſt recommence & tenat ſon cours ſelont la requeſt des Communs & grant de noſtre Seigur le Roi avant ditz. And then but the inconſiderate haſty new created word of the Clerks in a diſtracted time, when the great Miniſters of State in two contrary Factions, to the ruin of the King and many of themſelves, as it afterwards ſadly happened, were quarrelling with each other, and all the Biſhops ſo affrighted, as they were enforced to make their Proteſtation againſt any proceedings to be made in that ſo diſturbed a Parliament.

In *Anno* 21. *R.* 2. The Biſhop of *Exeter* Chancellor of *England* taking his Theme or Text out of *Ezechiel, Rex unius omnibus erat* proved by many Authors that by any other means than by one *ſole King* no Realm could be well governed; For which cauſe the King had aſſembled the *Eſtates in Parliament* to be informed of the rights of his *Crown* withheld, which Oration afterwards was to the ſame effect ſeconded by Sir *John Buſſey* Knight, Speaker of the *Houſe of Commons.*

King *Richard* the ſecond being as a Priſoner in the *Tower* of *London* made the Archbiſhop of *Canterbury,* and the Biſhop of *Hereford* his Procurators to publiſh his Remuneration of the Kingdom to the *whole Eſtates.*

Which whether at at that time diſtinguiſhed or divided

ded into three doth not appear, *viz.* into Lords Spiritual and Temporal, and Commons could not comprehend the King, who was not to be present, but gave the direction and authority to his said Procurators, and *could never have been* understood to have been present, or one of them himself, *or to have made such a prosecution against or for himself.*

After the claim made unto the Crown of *England* in Parliament by *Henry* Duke of *Lancaster*, and a consultation had amongst the Lords and *Estates* (not expressing that the Commons were a 3d. or any part thereof, it being then altogether improbable that King *Richard* the 2d. or any other representing for him was there present, and to make one of the said pretended Estates as much out of the reach of probability, that King *Richard* himself was one, or a Person then acting against himself, the Duke of *Lancaster* himself then affirming, that the Kingdom was vacant.

And when the Usurping King *Henry* the 4th. openly gave thanks to the *whole Estates*, (wherein is plainly evidenced) that himself neither was or could be understood to be then, or at any other time one of the said *Estates*.

H. 4. The first day of the Parliament the Bishop of *London* the Kings Brother and Chancellor of *England* in the behalf of the King, Lords and Commons, declaring the cause of calling the Parliament, and taking for his Theme *Multitudo Sapientum*, learnedly resembled the Government of the Realm to the Body of a man, the *Right-hand* to the *Church*, the *Left-hand* to the *Temporalty*, and the other Members to the *Commonalty*, of all which Members and *Estates*, the King (not deeming himself to be one) was willing to have Councel.

9. H. 4. The Archbishop of *Canterbury* Chancellor of *England* by the Kings commandment, declaring the cause of the Summoning the Parliament, and taking for his Theme *Regem honorificate*, shewed them that on necessity, every Member of mans Body would seek comfort of the *Head* as the Chief, and applyed the same to the honouring of the *King as the Head*. And in that his Oration, mentioning the Lords Spiritual and Temporal, Knights, Citizens and Burgesses giveth them no Title of Estates, but the *Kings Leiges*.

In

In the preſence of *John Duke* of *Bedford* Brother of the King Lieutenant and *Warden* of *England* and the Lords and Commons, the Biſhop of *Durham* by his commandment declared that the King willed that the Church and all *Eſtates* ſhould enjoy their Liberties (which could not include the King.) Ro. Parl. 5. H. 5.

It was ordained that all *Eſtates* ſhould enjoy their Liberties without the words *Conceſſimus* (which could not comprehend the *King who granted it to them, but not to himſelf.* 1 H. 6.

The Chancellor at the firſt aſſembling of the Parliament declared, that the King willeth that all *Eſtates* ſhould enjoy their Liberties, (*which muſt be intended to others that were his Subjects, and not to himſelf that was none of them.*) 4 H. 6.

The Archbiſhop of *York* Chancellor of *England*, declaring the cauſe of Summoning the Parliament, ſaid, the King willeth that all *Eſtates* ſhould enjoy their Liberties, in which certainly *he well knew, that the Perſon willing or granting, was not any of the Perſons or Eſtates to whom he willed and granted that they ſhould enjoy their Liberties.* 6 H. 6.

The Duke of *Glouceſter* being made Guardian or Keeper of *England*, (by the King ſitting in the Chair) the Archbiſhop of *York* being ſick, *William Linwood* Doctor of Laws, declaring the cauſe of ſummoning the Parliament, ſaid, that the King willed that every *Eſtate* ſhould enjoy their due Liberties, which properly enough might be extenſively taken to Military men and Soldiers, the Gentry, *Agricolis opificibus* all ſorts of Trades, Labourers, Servants, Apprentices, Free-holders, Copy-holders Leaſe-holders, ſingle Women and Children, Tenants at Will, and which never were themſelves Eſtates, but the ſeveral ſorts and degrees thereof, wherein if any Law, Reaſon or Senſe could make the King to be comprehended, an inextricable problem or queſtion would everlaſtingly remain unreſolved who it was that ſo willed or granted. 9 H. 6.

The King ſitting in his Chair of State, *John* Biſhop of *Bath* and *Wells* Chancellor of *England*, in the preſence of the Biſhops, Lords and Commons by the Kings Commandment, declared the cauſes of ſummoning the Parliament, taking for his Theme or Text, the words *ſuſſi-* 11 H. 6.

piant montes Pacem & Colles Juſtitiam, divided it into three parts according to the three *Eſtates*, by the Hills he underſtood Biſhops and Lords, and Magiſtrates, by *little* Hills, Knights, Eſquires and Merchants, by *the People*, Husbandmen Artificers and Labourers.

By the which third *Eſtates*, by ſundry Authorities and Examples, he learnedly proved, that a *Triple Political* vertue ought to be in them, *viz.* In the firſt *Unity*, *Peace* and *Concord*, In the ſecond *Equity*, *Conſideration* & *Upright Juſtice*, without maintenance; In the third, *due Obeyſance* to the King, his Laws and Magiſtrates without grudging, and gave them further to underſtand the King would have them to enjoy all their Liberties.

Of which third *Eſtates*, the Chancellor in all probability, neither the King, or they that heard him, did take or believe the *King* himſelf to be *any part*.

The 15th day of *Auguſt*, the Plague beginning to increaſe, the Chancellor by the Kings Commandment in the preſence of the 3 *Eſtates*, (the Clerks Tranſlator or Abridger being unwilling to relinquiſh their Novelty or Errors,) (of which the commoneſt capacity or ſenſe, can never interpret the King to be one,) Prorogued the Parliament until the *Quindena* of St. *Michael*.

18 H. 6. The Biſhop of *Bath* and *Wells* Chancellor of *England*, in the preſence of the King, Lords and Commons, declaring the cauſe of the Summons of Parliament, ſaid that the King willed that all *Eſtates* ſhould enjoy their Liberties, which might intitle the King *to be the Party willing or granting, but not any of the Parties, who were to take benefit thereby.*

It was enacted by the *whole Eſtates*, (which may be underſtood to be the King, Lords Spiritual, and that the Lords of the Kings Councel (none of theirs) ſhould take ſuch order for the Petition of the Town of *Plymouth*, as to them ſhould ſeem beſt.

Letters Patents, being granted (by the King) to *John* Cardinal, and Archbiſhop of *Canterbury* of divers Mannors and Lands, parcel of the *Dutchy* of *Lancaſter*, under the Seal of the *Dutchy*, were confirmed by the whole *Eſtates*, for the performance of the laſt Will and Teſtament of King *H.* 5. though it was ſevered from the Crown, and was no part of the concernment thereof, nor had any relation to the Publick, or any Parliamentory

tory Affairs, the King himſelf that granted the Letters Patents, could not be interpreted to be one of thoſe *whole Eſtates*, which were ſaid to have confirmed them.

By the whole Eſtates were confirmed King *Henry* the 6th Letters Patents, of the Erection and Donation of *Eton* Colledge, and alſo of Kings Colledge in *Cambridge* with the Lands thereunto belonging, which might well conclude the King, although he being the Donor, could not be believed to be any part of the *whole Eſtates*, who by their approbation are ſaid to have confirmed his Letters Patents.

The Chancellor in the name of all the Lords in the preſence of the King, proteſted that the Peace which the King had taken with the *French* King, was of his own making and will, and not by any of the Lords procurations, the which was enacted. 24 H. 6.

And it was enacted that a Statute made in the time of King *H.* 5. that no Peace ſhould be taken with the *French* King, that then was called the *Dolphin* of *France*, without the aſſent of the three *Eſtates* of both Realms ſhould be utterly revoked, and that no Perſon for giving Counſel to the Peace of *France*, be at any time to come impeached therefore, which may demonſtrate that neither the *Dolphin* of *France*, nor the King of *England*, were then accompted to be any part of the ſeveral 3. *Eſtates* of the ſaid Kingdoms.

The King by his Chancellor declared that he willed that all Eſtates ſhould enjoy their Liberties, it cannot be with any probability ſuppoſed that either he or his Chancellor intended that himſelf was one of the ſaid *Eſtates*. 25 H. 6.

The Archbiſhop of *Canterbury* Chancellor of *England*, in the preſence of the King gave thanks in his behalf to the 3. *Eſtates*, wherein no Grammar or Conſtruction of Reaſon or Senſe, will ever be able to comprehend the King. 28 H. 6.

The 17th day of *December*, the Chancellor in the preſence of the King and the 3 *Eſtates*; (which is ſurely to be underſtood to conſiſt of other Perſons ſeparately and diſtinct from the King) Prorogued the Parliament until the 20th day of *January* then next enſuing, at *Weſtminſter*, and upon the 28th day of *April*, was likewiſe Prorogued to the 5th day of *May* next following. 29 H. 6.

The

33 H. 6. The Archbiſhop of *Canterbury* Chancellor of *England*, in the preſence of the King, Lords and Commons, declaring the cauſe of Summoning the Parliament, ſaid, that the Kings pleaſure was, that all *Eſtates* ſhould enjoy their Liberties, which could not ſignifie that the King himſelf was one of thoſe *Eſtates* to whom he granted that favour.

33 H. 6. The 25th day of *December*, the Chancellor in the preſence of the King, and the 3. *Eſtates* by the Kings Commandment, giving thanks to the 3. *Eſtates* (the King being then by the Chancellor, or any other Maſter of Reaſon or Common Senſe, not underſtood to be any one of the 3. *Eſtates* to whom the thanks were given) diſſolved the Parliament.

1 E. 4 An Act of Parliament was made, wherein was declared that King E*dward* the 4th was the undoubted King of *England*, from the 4th day of *March* laſt before, and that all the *Eſtates* yielded themſelves obeyſant Subjects unto him and his Heirs for ever, (the late never to be maintained Doctrine of the pretended co-ordination of the Houſe of Commons in Parliament, as Subjects with their Soveraign in Parliament, and the Government being not than that eſtabliſhed, or ever to be evidenced otherwiſe then God hath ordained a co-ordination betwixt the King and his Subjects, which is, that the People as Subjects ſhould obey their King, and the King as their Soveraign Protect, Rule and Govern them,) and affirmed the Raign of King *Henry* the 4th to be an Intruſion, and only Uſurpation.

E. 4. The Chancellor, the King ſitting in his Royal State, in the preſence of the Lords and Commons made an Eloquent Oration, wherein he declared the 3. *Eſtates* to comprehend the Governance of the Land, the preheminence whereof was in the Biſhops, the ſecond to the Lords Temporal (which the learned and men of that Age, and other Chancellors underſtood to be no other than two ſeparate and diſtinct Eſtates, the one Temporal, and the other Spiritual, and the King to be Superiour.

14 E. 4. The Biſhop of *London* Chancellor of *England*, in the preſence of the King and the 3. *Eſtates*, (the King being none of them, but Superior over them all,) Prorogued the Parliament to the 6th of *June* enſuing.

For where the Abridger, or Mr. *Pryn* poſſeſſing himſelf

ſelf to be the Rectifier, or Corrector, amongſt his other faults and miſtakings in his Epitomizings made it to be in the Parliament Rolls of *6 Edwardi* 3. that many failing to come to the Parliament upon the Summons of the King, did put a charge upon the *whole Eſtate* by a reaſſembly, he will find neither words or matter for it.

All that appears of the Title of *Eſtates* in the Parliament and Statute Rolls of that year, is no more than the *Prelats grants & gentz du Commune*, or *les Prelats, Counts, Barons, gentz des Countez & gentz de la Commune.*

No whole Eſtate mentioned in the Parliament Roll, 15 E. 3. all that is ſaid *n.* 42. is no more than a *les requeſts des grantz come de ceux de la Commune, & de le Clergie.*

That which is tranſlated the Eſtate of the King, is no 17 E. 3. more in the Parliament Roll *n.* 5. than *les beſeignes noſtre ſeigneur le Roy, & de ſon Royame.*

Where the Abridger ſaith the Parliament was to treat and adviſe touching the *Eſtate de noſtre Seigneur le Roy, & le Governement, & le ſalnette de ſa terre d' Angleterre, & de ſon people, & relevation de lour Eſtate*, there is no other mention of *Eſtates* than the *Prelatz, grantz, & Commons de ſon roiame*, and charged *les Chinalers des Countes* and *Commons* to aſſemble in the *Chamber de Pinct.*

A quel Jour vindrent les Chivalers des Counties & autres Commons, and gave their advice in a Petition in the form *enſuant a tres excellent, or tres honorable Seigneur les gentz de voſtre Commun ſoy recommandent a vous obeyſantment en merciant ſe avant come leur petiteſſe powre ſuffice de & tant tendrement pervez a quer & maintenir la pees a la quiete de voſtre people*, &c.

Et *en maintenance des autres Leyes as autres Parliaments devant ces heures grantees voſtre poure Commons ſil vous plaiſt ſa gree & ſemble a la dite Commune & totes autres choſes poent ſuffiſantement eſtre rewelez & Terminez en Bank le Roy Commune Bank & devant Juſtices as Aſſiſes prendre niſi & les delayes nient covenable ſoient aggregez & ouſtez ore a ce Parliament per eſtatut.*

En. Ro. Parl. 18. E. 3. Where the King deſired the names of the abſent Lords, that he might puniſh them, there is no mention of the Clergy or Commons, or of any *Eſtates*, and the King afterwards deſiring their advice touching his Treaty with *France*, charged the *Prelats, Countz, & Barons et Communs*, to give their advice therein.

Which they all did without naming themſelves, or being ſtiled *Eſtates.*

Ro. Parl. 20. E. 3. The Kings Letters of Credence ſent out of *France* to his Parliament in *England*, were directed *a toutes Ercheveſquis eveſques, Abbes, Priours, Counts, Barons, & toutz autres foialx le Roy, & vendront au dit Parlement troter ſur les beſeignes le Roy*, whereupon he demanded an Aid of the ſaid *Prelats grantz & Communs.*

And the Lords (without the Title of *Eſtates* having granted it,) *the Chivalers des Counties, Citizens & Burges des Cities & Burghs, Prioront de avoir aviſement entre eux*, and in Anſwer thereunto, delivered a Petition unto the King for redreſs of Grievances, (not by the name of the *Eſtates*) but a *noſtre Seigneur le Roy & a ſon conſeil priorent les gentz de la Communes de ſa terre auſi bien des Cities & Burghs come de Counties.*

Ro. Parl. 25. E. 3. Where it was ſuppoſed that a Pardon was granted, and a Reſtitution made to Sir *John Matrevers* of all his Lands by the whole *Eſtates*, there appeareth no more in the Parliament Rolls than that he Petitioned, *A noſtre Seigneur le Roy & a ſon bon conſcil*, wherein he recited that Reſtitution had been granted, *de poiar royal noſtre Seigneur le Roy par bon accord & Common aſſent des Prelatz, Countes, Barons, de ſon Roialme par pluſieurs cauſes*, appearing in the Kings Charter of Pardon, and prayed *quil plaiſt a noſtre dit Seigneur le Roy, & a ſon bon conſcil par la bondance de ſa Noble Seignorie granter & la reſtitution ſciſdite pouſſe eſtre ore renovelle en ceſt Parlement quelle Petition lue fut reſpondue & endorſe par les Seigneurs & autres grantz du Parlement quil ſemble an conſcil & la Chartre doit eſtre renovelle & entre en roule du Parlement & eſt de Record ſil pleſt au Roy, & pour ceo & meſme ceſſe Petition fuſt pius monſtre au Roy, & il ad ottroie, & auſſint eſt ottroio per la Commune ſoit la dite Chanre renovelle per accord de tut le Parlement, & entre en roule de meiſme le Parlement en le meliour mannere & pourra eſtre pour bone & gremdre aſſurance del eſtat le dit Johan*, in and by which, the King repealing the Judgment given againſt him in Parliament. *Judicio predicto non obſtante*, ſaith only, *nos ad requiſitionem prædicti Johannis, & pro majori ſecuritate ſtatus ipſius Johannis de aſſenſu prælatorum ducum Comitum, Baronum, & Comitatis Regni noſtri Angliæ in præſenti Parliamento noſtro exiſtentium reſtitutionem prædictam ratificamus* &c.

The

The Archbiſhop of *Canterbury*, and thoſe many Suffragan Biſhops and Clergy of his Province, not at that time deeming themſelves to be an *Eſtate*, Soveraign or Governing either in or out of Parliaments, when in that Parliament they Petitioned unto him in this manner, *a noſtre Seigneur le Roy ſupplient ſes humbles Chapelleius Symon par divine ſoefrance Ercheveſque de Canterbury, & ſes frereres Eveſques de ſa Province par eux & tote le Clergie quil pleiſe a noſtre dit Seigneur le Roy pour le reverence de dieu, et de Sainte Egliſe et a ſa benignite a eux granter et confirme totes les liberties et privileges et droits grantez et donez par lui et ſes nobles progenitors avant ſes heires a ſainte Egliſe par leur Chartres Eſtatuts et Ordinances* &c.

Where it was in the Tranſlation miſtakenly ſaid, that the King gave thanks to the *whole Eſtate*, and licenſed them to depart. Ro. Parl. 40. E. 3. n. 16.

The Record is only, *et ſi faiſt mercia le Roy as Prelatz grantz, et Communs de leur venir et leur bone port en Parlement, et leur done congie a departir, et iſſint finiſt le Parlement.*

Anno 42. E. 3. When the *Engliſh* Abridgment or Tranſlation ſaith, that the Archbiſhop of *Canterbury* on the Kings behalf, gave thanks to the whole Eſtate for their Aids and Subſidies. 42 E. 3 n. 7. & 8.

The original in the Parliament Roll is no more than, *et le Samedy ſuant les Communs eſteanuts en la dite chambre Blanche fueront charges quils faiſſent leur Petitions, et quilles baillerent le meskerdy ſumant.*

Et le Lundy Suant les Prelatz grantz en meſme la Chambre eſteant fut monſtrez a eux par lercheveſque coment le Roy leur mercie de grant Cuer de pluſieurs aides quils lui avoeint faitz et meement des darreine aide quils lui facerent en le darrein Parlement des Subſides et Cuſtoms a lui grants de Leynes Quers et Peaux lanuz pour un temps et ce fut il que le grant fuſt chargrant a ſon people nient moins per vint an demora au profit ou encres de lui per cauſe des grant chargez et payements faits et ſuſtemis cy bien a Caleis Guines Pontiff, et ſes autres terres de la come d' Irland, et la marche de eſcoce que leur plat par tant avoir conſideration a ſon Eſtat et honeur, et a s grantz charges que lui avoient faire et ſuſtenue deners le marche d' Eſcoce pour la ſalvation dicelle pour cauſe qui ſemble plus la guerre qui pees par les reſpons des Eſcetz Sur que les choſes les Prelatz et grantz en deliberation plein ove les Communs de une accord granterent a noſtre Seigneur le Roy en aide de ſon, et honeur

neur ſomner et gardez et les grants cuſtages que lui conient faire, et mettre par diverſe voies les Subſides, et Cuſtoms de laynes, &c. *par deux Aus prochein enſuant qui paſſe hors du dit roialme.*

After which followed the Petitions *des* Commons, without any Title of Eſtate.

Ro. Parl. 4. R. 2. The Chancellor on the Kings behalf, commanded the *Prelats, Seigneurs* and *Commons*, there being to continue there until *le beſoignes del Roy* were finiſhed, and not to depart without Licenſe, and the Commons do in their Petitions ſtile themſelves no otherwiſe than *voz pouvrez et liges Commons.*

Item prient la Clergie.

And the Commons made their Declaration in theſe and no other words, *a noſtre Seigneur le Roy, et a ſon conſeilpar la Commune d' Angleterre.*

Item prie le Commune at coine ils ſe ſentent de jour en autres ouragenſes eſtre grievez par pluralitez des guerre as conſtage importables et pleſe noſtre Seigneur le Roy, et ſon ſage conſeil ordonne ent remede qur tieuxchargez autre porter la Commune ne purra en nul manere ſuſteiner.

Unto which the *King* anſwered, *le Roy le faire volunters ſes honeurs, et Eſtat londiz ſalvez*, all which put together, do not declare the Commons, to be a third Eſtate, and no ways agreeth with the Abridgers Tranſlation, that the Commons by their Speaker, requiring the King to have conſideration of their poor Eſtate.

He anſwered that it was neceſſary to provide as well for the ſafety of his own Eſtate as for the Common-wealth.

Ro. Parl. 6. R. 2. Where the Abridger or Corrector Tranſlates, after Receivers and Triers of Petitions named, commandment was given, that all Perſons and *Eſtates* ſhould return the next day, to hear the cauſe of Summoning the Parliament declared.

The original ſaith no more than, *Touz enſemblez en my des Prelats et Seigneurs avant duz appellez eux Chancellor Terminer Seneſchall Chamberlaine, et les Sergeantz le Roy quat il beſeignera, et tiendront lour place en la Chambre Mercalſe.*

Et le Roy vous commande et vour retornez le de maine per temps pur avoir declaration en place eſpecial manere ſur les cauſes des le ſomonce avant dite, et en oultre le Roy commande a touz et avoient la dite ſomonce quils vieguent de jour en autre audit Parlement et quils ne ſe abſentent mye en de protentdycell ſans eſpecial congie de lui ſur peril q' appont.

The Biſhop of *Exeter* Chancellor of *England*, at the aſſembling

bling of the Parliament, taking his Text out of the Prophecy of *Ezekiel*, *Rex erit unus omnibus*, alledging the Power that ought to be in Soveraign Kings and Princes whereby to Govern, and the Obedience in Subjects to Obey, and that all alienations of his Kingly Priviledges and Prerogatives were reaſſumable, and to be repealed by his Coronation Oath, *pour quoi le Roy ad fat aſſembler de Eſtatz de Parlement a ceſt faire pour eſtre enformez ſi aſcun droitz de ſa Corone ſoient ſuſtretz on amemuſer a fin que par lour bon advis & diſcretion tiel remedie puiſſe eſtre mis & le Roy puiſſe eſteer en ſa libertie ou poir Commune ſes Progenitors out eſte devant lui & duiſſent de droit non obſtante aſcun ordinance an contrarie, & aniſi le Roy as Tenez & les governera*, in which Speech of the Chancellors, no man as it is ſufficiently probable, did then underſtand the King to be a part of the *Eſtates* he was ſpeaking unto, who if they could then in a time of Faction and Trouble of State, that had then affrighted and diſturbed the greateſt part of the Nation, have had any thought or imagination, that their King was ſo comprehended in that Novel word *Eſtates*, had a fair opportunity to have entred their claim to that Triumviracy, or never to be proved Co-ordination, or which would be beyond a lurking Soveraignty, for the Common People to reſort when they pleaſe, and were in the ſame Parliament afterwards ſo little elated with the expreſſion of the Clerk of the Houſe of Peers, in the entry of the Record of the Kings vacating of the Earl of *Arundels* Pardon, *par aſſent de touz le Eſtats du Parlement*, as they made their Proteſtation, and prayed the King that it might be Inrolled, that it was not their intent *ou volunte*, to impeach or accuſe any Perſon in that Parliament, *ſans Congie du Roy*, and if they had been any ſuch *Eſtates*, as ſome of late would entitle them unto, did not perceive themſeves to have been then ſo great, or in Partnerſhip with their Soveraign or above him.

And thereupon the Chancellor by the Kings command likewiſe declared that, *noſtre Seigneur le Roy conſiderant coment pluſieurs hantes offenſes & meſſaits outeſtre faitz par le people de ſon Roialme en contre leur ligeance & l' eſtat noſtre Seigneur le Roy & la loie de la terre devants ces heures dont ſon people eſciet en grant perill & danger de leie & lour corps, & biens, & voullant ſur ce de ſa royalle benig-*

nite monſtre & faire grace a ſon dit people a fyn quils ayent le greindre corage & volonte de bien faire & de leur mieux porter devers le Roy en temps avenir ſi voet & grante de faire & eaſe & quiete. & ſalvation de ſon dit people une generalle pardon a ces liges forſpris certaines pointz limitez par le ſouuant la ſuite al partie forſpris cyn quont perſones queux plaira au Roy nomez & touz ceux qui ſerront Empeſhez en ce preſent Parlement, & dit ouſtre que le dit Roy voet que plein droit & Juſtice ſoyent faitz a Chaſtun de ſes liges qui en voilent complandre en ceſt Parlement, & ad ordinez, & aſſignez Receivers & Triers des Petitions en ceſt Parlement.

And did in purſuance thereof in full Parliament, excuſe the Duke of *Yorke*, the Biſhop of *Worceſter*, Sir. *Richard le Scroop* then living, *William* late Archbiſhop of *Canterbury*, *Alexander* late Archbiſhop of *York*, *Thomas* late Biſhop of *Exeter*, and *Michael* late Abbot of *Walton*, then being dead of the execution, and intent of the Commiſſion made in the tenth year of his Raign, as being aſſured of their Loyalty, and therefore by Parliament reſtored them to their good name

And Sir *Edward Coke* might have beſtowed a better gift unto the Laws and *Lawyers* of *England*, and his native Countrey, than that *Pandoras* Box or *Circes* inchantment in his doted upon, or ſo much admired *modus tenendi Parliamenta*, which he at an adventure, not knowing himſelf from whence that *Baſtard* came, but was as a *Foundling* ſo young, left in the ſtreets, as it could neither declare who was its Father or Mother, and that which was ſomething marvelous, none had the luck to find it, and in charity pay for the nurſing of it, as himſelf and the Name of that nurſe, as unknown as the Father or Mother or progenitors thereof, and made himſelf ſo much aſſured of it, as if he had been preſent, when that *Modus* ſuppoſed to have been made by King *Edward* the *Confeſſor* was read before King *William* the *Conqueror*, and approved by him, & could not forbear but his fourth part of the Inſtitutes, or Comment upon *Littleton*, but he muſt frequently uſe it, but tranſmitted into *Ireland*, to be there obſerved in King *Henry* the ſeconds Raign, which there as little to be found Recorded and Authenticated, or Legitimated, as it hath been in *England*, as hath been before mentioned, and grew ſo over-

over-fond of it, as he hath as he thought, done no little piece of Service to after Ages, to inſert it as an eſpecial part or undiſcernable point or parcel of Law, although he might have ſeen that Mr. *Selden* would not not oblige himſelf or his Readers to walk along with him in his over-credulity, and all our Records both of *England* and *Ireland*, and all our Hiſtorians and Annaliſts, as well Coæval as of nearer times. as *Ordericus Ingulphus Vicalis*, *Eadmerus*, *Malmeſbury*, *Simon Dunelmenſis*, *Hovedon*, *Huntingdon*, *Florentius*, *Wigornenſis*, *Nubugenſis*, *Matthew of Weſtminſter*, *Matthew Paris*, *Treviſa*, *Chronica*, *Johannis Brompton*, *Walſingham*, *Giraldus Cambrenſis*, *Matthew Parkers Antiquitates Eccleſiæ Brittanicæ*, *Hollinſhead*, *Daniel Speed*, *Fox*, *Spelman*, and many others cited by Mr. *Pryn* in his manifeſt Proofs, Evidence, Conviction, Diſcovery and Refutation of that *modus tenendi Parliamenta*, to be full of *Falſities*, *Forgeries* and *Errors*, *a fabulous Legend and meer Impoſture*, to furniſh out *Jack Cades* Rebellion in the latter end of the Raign of King *Henry* the 6. for the advance of *Richard* Duke of *Yorks* Title to the Crown of *England*, and if there had been ſuch a *modus*, it may be more than an ordinary wonder, that the Conquered and Inſlaved People of *England* ſhould *precibus & ſletibus*, beg of the Conqueror Sir *Edward* the *Confeſſors* Laws, whereupon he *Anno quarto regni ſui Angliæ*, cauſed to be ſummoned, *concilio Baronum ſuorum per univerſos regni Angliæ Conſulatus Angliæ Nobiles ſapientes, & in ſua lege eruditos ut eorum leges & Jura, & conſuetudines ab ipſis audiret Electi igitur de ſingulis eorum patriæ Comitatibus viri duodecim Jure Jurando primum coram Rege confirmaverunt ut quoad poſſent recto tramice incedentes nec ad dextram nec ad ſiniſtram divertentes legum ſuarum & conſuetudinum ſancita patefacerent nihil prætermittentes, nihil addentes, nihil prævaritando mutantes, a ligibus igitur ſanctæ matriis Eccleſiæ ſumentes exordium quantum per eam Rex et Regnum ſolidum ſubſiſtens haberet fundamentum leges libertates & pacem ipſius confirmati ſunt*, there never having been before or ſince ſuch a ſolemn Jury, either in the Raigns of our *Britiſh*, *Roman*, *Saxon*, *Daniſh* and *Norman* Kings, or their many ſucceeding Kings or Princes, ſworn and impannelled by a King himſelf, or in any Nation of the World, that any Hiſtory or Record hath been able to give

Chroms Litchfield.

L. L. Edward Confeſſors.

give us an account, and yet in the Verdict and return thereupon made, faithfully written and Recorded by two Biſhops, there is not a word or ſyllable, or any the leaſt mention, or intimation of that *modus tenendi Parliamentum*, or any the pretended Rights or Priviledges of Parliament in thoſe our late infatuated and rebellious times, ſo quarrelled and graſped without any manner of evidence and colour, and although in the beginning of the Raign of King *Charles* the *Martyr*, he could in the Houſe of Commons in Parliament, weep and lament with tears the ſuppoſed dangers with many *he knew not what* to call them fears and jealouſies, and procured many of his Fellow Members to bear him Company, did take care out of his *modus tenendi Parliamentum*, to bleſs after Ages with a parcel of its *levelling* Doctrine, which might make the broken pieces of the Monarchy of *England* never able without God's mercy to be cemented or put together again, but remain incurable by that means and help more than ordinary, which Mr. *Selden* thinks was written long after the *Norman* Monarchy, *and the Title of it is ſo falſe, that it too much diſparageth the Treatiſe.*

Ruſhworths Hiſtorical Collections, or *Pryns* confuted *modus tenendi Parliament.*

And that fictitious *modus* hath ſix diſtinct pretended *Eſtates*, wherein Sir *Edward Coke* was pleaſed to allow our King to be *Caput Principium & finis Parliamenti*, whom all other miſtakers, & the Bill or Inſtrument that made *Richard* 3 an uſurping King, made but three *Eſtates*, two or three of which degrees or States never ſat in Parliament before, or during the Conquerors Raign, nor many years after, ſaith Mr. *Pryn*, *Et pacem non habet in ſuo gradu*, (as that *modus* is pleaſed to allow him, *Et ita Rex ſolus eſt primus gradus. 2. (gradus eſt ex Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, & aliis Clericis qui Baronias tenent, 3. gradus eſt ex procuratoribus Cleri, 4. gradus eſt ex Comitibus, Baronibus, & aliis magnatibus & proteribus, tenentibus ad valenciam Comitatus & Baroniæ, 5. gradus eſt de militibus Comitatuum, 6. gradus eſt de Civibus & Burgenſibus, & ita eſt Parliamentum de ſex gradibus, & ſciendum eſt quod licet aliquis dictorum quinque graduum poſt Regem abſens ſit dum tamen omnes præmonici ſint per rationabiles ſummonitiones Parliamentum cenſetur eſſe plenum.*

Selden tit. honor. part. 2. pag 613.

Pryns confutation of that *modus* p. 601.

And that ſpecial Engine or Machine of the Devil could not fail of a great effect in the furniſhing out and palliating

ting that damnable and hypocritical Rebellion, which for almoſt fifty years laſt paſt hath miſerably infatuated and *ruined England*, with damage and miſchiefs in abundance to *Ireland* and *Scotland*, and the loſs almoſt of ſome hundred thouſand mens lives, and the ruin of very many Families, unto which that *modus tenendi Parliamentum* was a compleat directory, and to all our Rebellious Confuſions and Troubles after happening, and introducing the Murder of the Bleſſed King *Charles* the Martyr.

And was not like to produce any better conſequence than the diſlocating and tearing in pieces a moſt happy kind of Government, and transferring a well eſtabliſhed Monarchy into the ſaid fatality of an Anarchy, no where to be found amongſt all the Monarchies of *Chriſtendom*, or any other parts of the World, or any the Ideas of *Plato*, or any Legiſlators of the World, Sir *Thomas Moores Utopia*, or that which *Gonzagua* and his Geeſe found in that of the World in the Moon, or that which would not long have ſatisfied *Wat Tiler*, *Jack Cade*, *John* of *Leyden*, *Maſſinello*, or the Rabble of their State menders, or Propagators of their Rambling Fancies, one part of which *modus* hath this ſpecial Doctrine, *Et ſciendum eſt quod duo milites qui veniant ad Parliamentum pro ipſo Comitatu vocem habent in Parliamento in concidendo & contradicendoquam Majores Comites Angliæ, & eodem modo procuratores Cleri unius Epiſcopatus Majorem vocem habent in Parliamento ſi omnes ſint concordes quam Epiſcopus ipſe, & hoc in omnibus quæ ad Parliamentum concedi negari vel fieri debent, ex hoc patet quod Rex poteſt tenere Parliamentum in Comunitate Regni ſui abſque Epiſcopis Comitibus & Baronibus dum tamen ſummoniti ſint ad Parliamentum licet nullus Epiſcopus Comes vel Baro ad ſummonitionem venerint quia olim nec fuerat Epiſcopus, Comes nec Baro, & adhuc tunc Reges tenuerunt Parliamenta ſua ſed aliter eſt e contra licet Communitates Cleri & Laici ſummoniti eſſent ad Parliamenta ſicut de Jure debent, & propter aliquas Cauſas venire nollent ut ſi prætenderent quod Rex non regeret eos ſicut et aſſignaret ſpecialiter in quibus Articulis eos non rexerat, Parliamentum nullum eſt omnino* (at their will and pleaſure) *licet omnes Archiepiſcopi Epiſcopi Comites & Barones eorum pares cum Rege intereſſent*, (a large Priviledge if Sir *Edward Coke* were alive to ſee, if he could with a

Torch Fanatically lighted, it authenticated as ſuch Charters uſed to be with many Witneſſes, for a farthing or ſmall Candle will never be able to do it,) and it ſeems that that part of the *modus*, or the reſidue of that incredible Tale or Story was not ready at hand, when he was Speaker of the Houſe of Commons in Parliament, when Queen *Elizabeth* charged him to tell that Houſe, that it was only in her Power to Summon, Prorogue, Adjourn and Diſſolve Parliaments, which he without any contradiction of what ſhe had ſpoken unto him faithfully related unto them, and they as little denied, *et ideo oportet quod omnia quæ affirmari vel informari concedi vel negari aut fieri debeat per Communitates Parliamenti concedi quæ eſt ex tribus gradibus ſive generibus Parliamenti ſcilicet ex procuratoribus Cleri, Militibus Comitatibus Burgenſibus qui repræſentant totam Communitatem Angliæ, & non de magnatibus quia quilibet eorum eſt pro ſua propria perſona ad Parliamentum, & pro nulla alia.*

Heywood Townſend Reports of the four laſt years of Queen *Elizabeths* Raign.

And that levelling Doctrine will want a confirmation in a Record of 11 *H.* 6. the original whereof is only thus.

Ro. Parl. 11 H. 6.

Memorandum quod octavo die Julii Anno Regni Henrici Regis poſt Conqueſtum undecimo ipſo dom. Rege in Parliamento ſuo apud Weſtmonaſterium tunc convocato ſede ſua Regia in Camera depicta reſidente præſentibus etiam tunc ibidem illuſtriſſimis Principibus Bedford & Glouceſter ducibus ac Reverendiſſimo in Chriſto Patre Henr. Cardinal. Angliæ cæteriſque quam pluribus Prelatis Proceribus & Communibus Regni Angliæ ad Parliamentum prædict. authoritate regia convocatus venerabilis pater Johannis Epiſcop Bathon & Wellen Cancellarius Angliæ cauſam Summoniconis ejuſdem Parliamenti ex ipſius domini Regis mandato egregio aſſumens pro ſuo Themate ſuſpiciant montes Pacem & Colles Juſticiam in quibus Rex verbis aſſervit quod triplex regni ſtatus potuit ut ſibi videbat rationabiliter annotari (ſeveral degrees or conditions of men) *videlicet, per Montes Prælati Proceres & Magnates per Colles Milites Armigeri & Mercatores, & in populo Cultores Artifices & Vulgares,* (uſed to be Elected to come to Parliaments in thoſe days) *Quos quidem ſtatus enuncialius exponend aſſerint & per nonnulla autoritates Hiſtorias & Exempla ſummaria demonſtravit quod triplex deberet virtus politica eiſdem tribus ſtatibus ſpecialiter pertinere videlicet Prelatis & Magnatibus*

pax

pax veritas & vera concordia abſque fictur. vel diſſimulatione.

Militibus & mediocribus æquitas & mera Juſtitia abſque manutenentia & pauperum expreſſione vulgaribus vero vel inferioribus voluntaria Regi & ejus Legibus (when he intended none of the three ſeveral *States* to be allowed the Legiſlative Power) *obedientia abſque perjurio & manutenentia.*

Ex quibus ſi in Regno Angliæ taliter ſe haberent maxima de conqueacencia ac Regi & Regno Commoda quam plurima ſine dubio pervenirent ad providend. igitur qualiter in Regno montes prædicti pacem ſuſcipiant Colles que Juſtitiam vulgari populo adminiſtrant ipſi etiam populi vulgares eorum antiquis relictis perjuriis divinis legibus & humanis plus ſolito fideliter obediant & intendant prefat. dominus noſter Rex ex ſui ſani aviſamento concilii dictum preſens Parliamentum facerit convocari volens & concedens quod præfati Magnates & Comitates prædict. (without giving either of them the Title of Eſtates) *omnibus & ſingulis libertatibus & quietanciis eis per nobiles* Progenitores *ipſius domini Regis quondam Reges Angliæ conceſſis & per eundum dominum Regem confirmatis & minime revocalis nec per legem Angliæ revocabilibus ſet per eoſdem Prelatos & Magnates, & Comitatem bene & rationabiliter uſitatis gaudeant & utantur dedit inſuper prefat. Cancellarius prædict. Communibus* (without any Title of Eſtates) *nomine Regio firmiter in mandatis quod in eorum domo Communi antiquitus uſitato in Craſtino convenirent & eorum prolocutorem eligerent, & ſic electum prefat. Domino Regi cum ea celeritate qua commode poterant realiter preſentarent.*

Et ut Juſtitia conqueri volentibus poſſit celerius adhiberi idem dominus noſter Rex certos Receptores & Triatores petitionum in prædicto Parliamento exhibend. conſtituit & aſſignavit.

Item 13. die Auguſti Anno preſento domino Rege & tribus regni ſtatibus in preſenti Parliamento exiſtentibus (which being but a Phraſe or Expreſſion of the Clerk could reach no further than the Chancellors meaning in his before mentioned Speech, relating ſeveral ſorts or qualities of People then aſſembled in Parliament) *poſt gratias redditas ex parte domini Regis & ejus mandato Communibus regni* (without any Title or Stile of Eſtate) *tunc* Ro. Parl. 11. & 12 H. 6. m. 11.

tunc ibidem preſentibus deorum bonis diligentiis & laboribus circa ea quæ ſibi ex parte regni injuncta fuerunt exhibitis & oſtenſis præfat. dominus Cancellarum de mandato ejuſdem domini ulterius declaravit qualiter idem dominus Rex ipſorum Communitat. relatione conceperat quod in Civitate London et Suburbiis gravis peſtilentia ceperat oriri qualiterque prefat. Communes (without the appellation of *Eſtates*) *plenam et particularum informationem et nolitiam notarium extorſionum oppreſſionum manutent et aliorum defect. in dicto regni habitorum unde idem dominum Rex certiorari affectabat per eoſdem nullatenus habuerint attendens etiam idem dominus Rex qualiter tempus Autumpnale in quo magnatibus circa ſuas recreationes et deductas* (without any Title of *Eſtates*) *inſiſquet Communibus* (with no Title or Eſtates) *circa ſuarum meſſium congregationem intendere competabat ſiniliter appropinguabat.*

Quibus de cauſis et preſertim ut prefati Communes (without any other Title) *de extorſionibus oppreſſionibus riotis manutentiis et aliis defectibus prædictis particulariter informari poſſent ac dictum dominum Regem inde plenius edoteri idem dominus Rex dictum preſens Parliamentum uſque xv. nam poſt feſtie ſcilicet Michaelmis tunc proxim. futurum apud Weſtminſter voluit prorogari a: illud realiter prorogavit omnibus et ſingulis quorum interfuit firmiter injungendo quod apud Weſtminſter. dict. xv. die excuſatione quacunque ceſſante perſonaliter convenirent ad tractandum comitandum et conſentiendum ſuper hiis quæ tum ibidem pro pacis bono et Regis et regni commodo favente domino contigerit ordinari, &c.*

And it is not a little remarkable how a man of ſo great learning and practiſe in the Laws of *England*, as the aforeſaid Sir *Edward Coke*, ſhould either be ſo much bewitched with that *modus tenendi Parliamentum*, and at the ſame time ſo much admire *Littletons* Book of Tenures as he believed many of his *& cætera's*, or abbrieviations therein to comprehend ſome more than common or ordinary point, or ſpecial matter of Law worth the enquiry, and not be able to underſtand that the Feudal Laws were the Fundamental Laws of *England*, and ſupporters of the Ancient Monarchick Government thereof, and were nearly allied to the Civil or Cæſarean Laws with their Patroni or Clients, and have deſcended unto us from the *Longobards*, *Brittains*, *Saxons*, *Goths* and *Vandals*, and other Northern Nations, now and very anciently the Laws whereby for the moſt part all Chriſtendom is and hath been Governed, and that that excellent Book of *Littleton*, who was a Judge in the Raign of King *Edward*

Edward the fourth now not above 219. years ago, contained a Compendium Summary and Practice of our Feudal Laws, thoſe beſt, moſt wholeſome, firm and obliging Laws in the World, then and long before uſed in *England*, ſhould be ſo little acknowledged or beloved by Sir *Edward Coke*, whoſe principal care and deſign hath for a long time been to diſparage and bury them in Oblivion, by his over-much magnifying that fatal and grand Impoſture of *modus tenendi Parliamentum*, made it to be the Machine or Engine to batter and deſtroy our Fortreſſes of Loyalty, and ſhould not have allowed his Admirers as much or more than he did his and our *Littleton*, to believe either that *Empuſa* or *Modus* to be as a Creed to a People in that Frenzy, and almoſt national infatuity, wherein to he and his beloved *modus* had perſwaded them, and by the help of the Maſter of all Craft and Subtlety, turned our Laws out of their Ancient Inheritance, and by ſtiling our Feudal Laws, the Common Laws by the *Hocus Pocus* Inſolence, and Perjury of Parliament Rebellion now almoſt of fifty years continuance, rendred us to be like the *Jews* in their ſeventy years Captivity, who ſo forgot their Primitive Language as they were enforced to crave the incertain help of the *Mazorites* to underſtand their own Language, and by creeping themſelves into that which our Rebel Innovates would have called a third Eſtate, made themſelves the Governing Eſſential and Conſtituent part of the Parliament, the *generale Conſilium* or *Colloquium* of the Nation, in *arduis* not in *omnibus* but *quibuſdam*, being the moſt uſeful, wholeſome and profitable in and through all the Chriſtian World, and ſo experimented where they are kept in their due and proper Limits and Boundaries in a due Obedience to their Kings and Soveraigns, and cauſe as many as they can to believe them, that they as repreſenting the People, (who never truſted them to any or the like purpoſe) have an Inherent Right of Soveraignty in themſelves to accuſe, depoſe, or murder their Kings, and Elect or Chooſe another, turn a Monarchy into a Republick or Common-wealth, when there had not been in *England*, within the memory of any true Record or impartial Hiſtory any one before, framed by a Factious and Unquiet Party of Rebels in Parliament, under the baſeſt of Hypocriſy that ever

was practiſed in the World, upon the pretence of ſetting Chriſt upon his Throne.

And could not be content, until they had without any cauſe raiſed a Rebellion againſt their pious Prince, and murdered him, forced from the People to maintain thoſe their ungodly doings by Taxes, as much as amounted unto 48 Millions of Sterling Money, beſides the vaſt ſums of Money and Riches gained by the extorted Fines and Compoſitions from the Kings Loyal Party at Goldſmiths and Haberdaſher's Halls in *London*, the one for the 20th part of their Eſtates, and the other for compounding for their ſuppoſed forfeiture for fighting to defend their King againſt his Rebels, and their Plunderings, Sequeſtrations, and Decimations of thoſe with whom they had before compounded beſides a Tax for ſix Months of every Houſe-keeper in *London*, and its vaſt Lines of Communication for as much as their weekly Diet amounted unto, with Money borrowed upon that which they would call the Publick Faith, which cheat brought that Godleſs Party into their Repoſitory of the *Guild-Hall* in *London* abundance of Money, Plate, Rings, Jewels, Silver Bodkins and Thimbles, many of whom after thoſe villainous Wars and Rebellions ſomething appeaſed being in Poverty, have been the conſtant Attenders at the Houſe of Commons doors in Parliament, to enquire for *Madam Publick Faith*'s Habitation, but could never be able to find it, and beſides all theſe wickedneſſes, could not think they had done enough, until they had added unto their many ſins, that no ſmall ſin of Sacriledge, by Sequeſtring the Orthodox Miniſters, Impriſoning of the Biſhops, and ſale of their and the Deans and Chapters, Prebends and Cannons Lands, and their Woods and Poſſeſſions, Baniſhing and every way Impoveriſhing them, ſhutting up all or many of the Church doors in *Wales*, upon pretence of Reforming or Propagating Religion, but gathering the Tithes into their own Purſes; ſale of the King, Queen and Princes Houſes, and Rich Moveables, and of all their Lands and Revenues, the Coats of their Yeomen of the Guard, and the Plate in their Royal Chappels; *Allen* a Goldſmith, and Member of that Houſe of Commons, picking out and exchanging the Jewels out of the Kings Crown, and putting in counterfeit, plundered and ſold much of the

Lands

Lands and Goods of the Nobility, diſplaced the Maſters of Colledges and Halls in both the Univerſities, without ſhewing any cauſe more than that they would put in another of their own Party, and began to gape, and lick their Lips after a like Reformation of their Lands and Revenues, tore up the Braſs upon Monuments upon the ground, and made Money of them, becauſe there was inſcribed upon them *Orate pro nobis*, and broke thoſe Glaſs windows that had any Pictures or Images in them, for fear of Superſtition, made a Stable for Horſes in the Cathedral of St. *Pauls* in *London*, where heaps of dung might be as high as the Roof, and Sawyers ſeen ſawing in the Grave where the Biſhop of *London* was buried that obtained the City of *Londons* Charter of their Liberties from *William* the Conqueror for which their more grateful Succeſſive Mayors and Aldermen, at great ſolemnities never failed at their coming to that Cathedral in a kind of Proceſſion to walk about it.

And the Othodox Clergy of the Church of *England* calumniated by Mr. *John White* a Lawyer of the late ſeditious Edition, who being a Chairman appointed by a Committee of Parliament, to relieve thoſe that they would call plundered Miniſters, being the Factious Antichurch party, did ſo order the matter, as to put out all the Orthodox Miniſters, and taking his Notes and Examinations in Characters, was able to interpret them how he pleaſed, and upon the Accuſation of a Cobler at *Lambeth*, that the Learned Dr. *Featly* had Preached falſe Doctrine, he muſt be turned out of his Benefice, and impriſoned at *Lambeth*, wherein beſides many other, if not all, he or his Notes were ſhrewdly miſtaken, when one Mr. *Clopham* a Miniſter was for Adultery Ejected, when it was proved that by a fall from his Horſe, he was ſo diſabled in his Genitals as he could not be guilty of it.

And the Eccleſiaſtical plunder Maſters were to take a more than ordinary care, that when their ſmall compaſſion had been pleaſed to allow the Sequeſtred Miniſters Wives and Children a 5th part of their Husbands Benefices, that they ſhould have as little, and as hardly as could be of it, when after they had tired themſelves with their Petitions to the upper and lower Committees, they had obtained an Order for that their ſmall pittance found

found no other comfort, after that they had travelled forty or fifty, or more miles unto one that ſhould pay it, then one who being more merciful and candid than the reſt was pleaſed to ſhew a ſmall common or private almoſt inviſible note or mark in the Order that they ſhould not obey it.

Mean while about 100 of Sequeſtred Miniſters of the Weſt parts of *England* could have no better a place provided for them than to be impriſoned at *Lambeth* Houſe, but a little before notoriouſly infected with the Plague, and ordered an Alderman of *London*, whoſe Son is yet living to attend them with two Culverings or ſmall pieces of Cannon ready charged to fire upon them, as they were in the Chappel ſerving God, and hearing Doctor *Featly* preach unto them, where they had periſhed if God had not in mercy provided an eſcape for them.

And if this were or could be proved or juſtified to be a work for ſuch a third Eſtate, as that *modus tenendi Parliamentum* was ſo willing to provide for our Laws, having in their Subordination to Gods Laws, and not oppoſite unto them been truly believed, and ſaid to have been derived from Right Reaſon, yet that is always to be underſtood to be ſo, when it hath received the Sanction of the King, and are not agitated by the various wills, intereſts and fancies of the People next unto madneſs.

And it might amuſe and amaze all the men of Law and Learning in the Kingdom of *England*, how Sir *Edward Coke* that hath been attempted to be a man of ſo great knowledge and experience in the Law, and entruſted with ſo many weighty Charges and Offices in our Laws, as Lord Chief Juſtice of the Court of Common Pleas, and afterwards of the Court of Kings Bench, and ſo great a Collector and Remembrancer of the caſes and judgments in the Law, with their various forms and entries ſhould have ſo often read in his ſo greatly beloved Book of *Littleton*, the Chapters of *Homage*, and *Homage Aunceſtrel*, and *Eſcuage* aſſeſſed in our Parliaments, could think it to be the Common Law of *England*, and that by which it had for many Centuries paſt been Governed, and not to be by its true and original Name and Nation, as well here as in all the other parts of the Chriſtian World the Feudal Law, and what elſe where thoſe Feudal Laws uſed in *England*, which our Learned Sir *Henry Spelman*

Spelman and Dr. *Zouch* Mr. of *Alban-Hall* in *Oxford* ſo largely & directly mentioned to have their beneficial Uſe and Reſidence amongſt us allowed and repeated by the very learned, the *Sieur du Freſne* a Baron of *France*, and other good Authors and Hiſtorians And if thoſe premiſes cannot be enough to ſatisfy us, Sir *Edward Coke*, if he were alive, might do well to inſtruct us what Law that Homage and Eſcuage appertained unto. And if there were any other Laws that this Kingdom was governed by when and by whom they were introduced, and of how long continuance, for it may be hoped that our Sons of Novelty will not be ſo impudent as to offer to obtrude upon the World the Follies and Villanies of *Wat Tiler* and *Jack Cade*, our late pretended *Rebuplicans* or their cheating Inſtrument maker *Oliver Cromwel*. Or upon what other Laws than Feudal are our *Magna Charta* and *Charta de Foreſta* ſupported, and as often as thirty times in ſeveral of our Parliaments confirmed, when all our many Engliſh Rebellions, troubles of State and Commotions either at home at abroad have left it as a *quiddam Sacrum* more than the ſafe guarded *veſtal fire* amongſt the *Romans*, or can ſhew us in any of our Records, Annals or holy Writ, wreſted or miſinterpreted, that the *Dernier Reſort* or Appeal hath been or ought to be in the people, unleſs they can make themſelves or any others believe that there was ſomething or more revealed to them than was in the *Scripture* or *Holy Prophets*, for there was no third *Eſtate* under our Kings to aſſiſt their Councels in Parliaments ſubordinate unto them put upon them, nor intended to be by the 25 *Conſervators* enforced upon King *John* in the Rebellious Parliament and Battle at *Running Mede*, afterwards reduced to four, or when their Captain General *Robert Fitz-Walter* was ſtiled *Mariſcallus Exercitus dei & Eccleſiæ Anglicanæ*, neither in *Anno* 42. *H.* 3. being over-powered by ſome of his Rebellious Barons, where thoſe 25 *Conſervators* were turned into 24 the one half to be nominated by the King, the other by the contending party at the Parliament at *Oxford*, or when that afterwards adjudged derogatory Parliament to Kingly Authority was referred by King *Henry* the third and the Rebellious Barons unto the Arbitration of the King of *France* or ſworn to abide it, none of the Rebellious party were entituled *Eſtates*,

or in that after Rebellion and detaining King *Henry* the 3 and prince *Edward* his Son about a year and a quarter they would not adventure to form or imitate a general Councel in that captive Kings name, thoſe few that came were not called or intended to be a 3 *Eſtate* in an Houſe of Commons nor in any of the many Reſcripts or *Mandates* which *Symon Montfort* and his partner Rebels made in their Captive Kings name nor in any Parliament after his Releaſe or in the Parliament of King *Edward* the firſt when he was pleaſed to ſuffer ſome of the Commons Elected by his Writs to attend in the Houſe of Commons in Parliament, neither had they the boldneſs in all his long Raign of 35 years, or in the 17, or 18 years of King *Edward* the ſecond, or the fifty one years of King *Edward* the third, or in the Raign of King *Richard* the 2 until the Title of *E*ſtates crept in as aforeſaid, and Mr *Pryn* made himſelf after the Creator of them in his miſuſed rectifying.

And having as they thought turned the Tables the wrong way in calling our Feudal Laws the Common Laws, which indeed they are, ſhould be, and a long time have been, have ſo far put them out of their Right place, Order and Station, as they think they have changed our Feudal Laws which are & ſhould be the only Fundamental Laws of the Kingdom and Government thereof into a quite contrary, and too many of our Lawyers have been ſo willing to forget them, as they had rather now of late make us believe if they could the tricks of Attorneys to be our Common Laws, than our more Ancient, Legal, Rational and Fundamental Feudal Laws; Inſomuch that one, that thinks himſelf no ſmall one, hath of late been pleaſed to ſay very conſiderately as he thought, that the Study and Knowledge of Antiquities was but like the picking up of Old Iron in the *London* Streets or Kennels. As if the Prophet *Jeremy* had either miſtaken or loſt the Commiſſion which our Alwiſe and Omniſcient God had given him, when he adviſed us *Stare ſuper vias antiquas & inquirere veritatem*, and ſuch Lawyers of a late Edition might find themſelves hard put to it to anſwer the queſtion how or from whence proceeded or were derived our Oaths of Allegiance and Supremacy, which have for ſo many ages paſt been legally taken and enjoyned, and do and ought yet to continue, if not from an ancient Fundamental

tal Feudal Laws from what other Laws of God or man were they derived, or any the various Customs or Usages of either Heathen or Christian, fixt or established by by any other rational Custom or Usage or unfixt and left only to the divers Interests, Occasions and Contingencies of every mans particular Interest and Affairs, and can never be ascertained how long they shall continue in one and the same mind and good liking, and where the Systeem of these Laws, Usages or Customs are or may be found, or what Oaths of Allegiance and Supremacy have been sworn unto or upon them.

Whether upon the Old Custom of *England* of wrastling or chooſing King and Queen at the Epiphany or Twelft Night at *Chriſtmas*. And if they would be a 3 governing *Estate* may think themselves not a little beholding unto such as can either think or believe that they are or ought to be so in love with them as to trust them as formerly they had done, and could tell their Brethren of *Scotland* that their promises were but conditional, and did very lovingly alter order *their man of sin Oliver Cromwel* to beat, subdue, and after their Laws and Religion, promised the People of *England*, after that they had murthered their King and Laws, that they would maintain and govern by the Fundamental Laws, when they did all they could to subvert them, after they had coined it to be High Treason in their cutting off the Head of the late Earl of *Strafford*, and the Illustrious Family of the Prince of *Orange*, *William* the great Restorer and Rescuer of the *Ordines* or *States* of *Holland* and *West-Friezland*, (without the rest of their United Provinces) lying now interred under a stately Tomb at *Delfe* in *Holland*, with his well deserved Attributes could not escape their Ingratitude, when to please that *Protector* of the English villanies, and provide as well as they could for their self preservation, they made a League and Agreement with that great *Master* of *Hypocrisy*, *se neque Celsissimum Oransionensem Principem atque ex ejusdem familiæ Linea quempiam provinciæ suæ præfectum vicarium vel Archithalassim dehinc electum esse, neque etiam quantum ad provinciæ suæ Ordinum suffragia attinet permissaros* (obliging themselves for the Residue) *ut unquam eorum quisquam Fœderatorum provinciæ militiæ præficiuntur*, which they perswaded themselves would be sufficient enough to

Declaratio Ordinum Hollandiæ & West-Frisiæ, Printed at *Leyden*, 1655.

to ſatisfie their particular Conſciences, if they could but procure their aſſociate Confederates to be of the ſame perſwaſion, and be as little to be truſted as themſelves upon no other reaſon than that, *Quinimo eouſque remediſſe videtur ut ea quæ reliqui provinciarum Ordines perverſa Indicarunt varia uti loquuntur deductionibus D. D. Ordinum Generalium concilio judicata adeoque concepta adeoque conſcripta fuerunt exhibita, Idcirco jam ante inquirenti Nobiles ac provinciarum Hollandiæ Weſt Friſiæque Ordines neutiquam dubitantes quin nonnulli provinciarum fœderatarum Ordines non aliam ob cauſam minus convenienter indicarent rerum omnium ſtatum & fundamentum & quæcunque ex illo dependent ipſas denique veras rerum circumſtantias haud plane edocti fuerunt, nec quenquam fere quin poſtremum omnia & ſingula eorundem acta factaque cognoverit ſive alteri examini ſubjicere omni dubio procul ſolitæ ſollicitudini Nobilium & procerum Weſt Friſiæ Ordinum quam in ſalutem reipublica quotidie intendant attributum ſic nunc demum ſecundum promiſſa juxta decretum quarto die Junii proxime elapſo præpotentibus D. D. Ordinibus General. uti quoque literis deinde nono die exarat. & relinquarum provinciarum Gen. potentibus B. B. Ordinibus exhibita apertam ſinceram veramque rerum omnium quæ ad Inſtrumentum ſecluſionis pertinent detectionem fœderatis Ordinibus exhibere voluerunt ſimul etiam omni ex parte nihil ſe quicquam in univerſo hoc negotio actum conceſſum confirmatumque fuiſſe quin id omne extra controverſiam ſibi abſque alicujus provinciæ damno, aut præjudicio agere concedere ſeu confirmare labore licuerit in quantum patriæ comodum ejuſdemque Incolarum & ſubditorum ſalus atque Incolumitas poſtulat,* (being no good excuſe but an *Oliver* ſatisfaction either in *Latine*, *Engliſh* or *Dutch*,) but a trick of *Olivers*, to work and model his own deſigns by affrighting them into the height of Ingratitude, and an Act of Oblivion of their Oaths and League with their formerly united Confederates.

Spelman. Gloſſar. And our Engliſh in the troubles and ſtirs betwixt King *John* and ſome of his Barons, when there were thirteen Knights in every County of *England* and *Wales*, ſworn to certifie the Liberties of the People, and in the Raign of King *Henry* the third the like number, there were no Liberties of a third Eſtate to be found in either of them.

Dr. Brady in his Hiſtory of thoſe times.

And when the tired ſelf created Republick never before heard of, ſeen, felt, underſtood or exampled in *England*, *Wales*, *Ireland*, or *Scotland*, and its vaſt *American* Plantations, and knew not how like *Phaeton* to guide their Ambitious Chariot, and the horſes would for want of conduct be diſorderly, run and tear themſelves, Chariot and all in peices, and make the driver never more covet exaltations, and fearing that the great Villanies and Oppreſſions which they had for many years together committed, and pillaging of three Kingdoms might ſhortly after retaliate and give them bitter Meat to their ſweet Sauce, and ſuppoſing that they might have no ſmall aſſiſtance from their Hypocrite *Oliver Cromwel* and his Rebel Army, did ſo ſuffer him and his Officers and Mechanicks to creep into their Parliament or Houſe of Rebels as in a ſhort time the one part of the Army getting into *London*, and the other quartering or encamping round about it, and intermedling with the Government, and procuring for themſelves and their Friends Memberſhips in the Houſe of Commons in Parliament, as no ſmall part of them had wrought themſelves into that Houſe of Commons, and the Speaker *Lenthal* with as much weathercock fidelity as Rebellion, fear and folly had ſuggeſted unto him, ran away to the Army, who triumphantly marching in a Militrary manner with their Cannon and Artillery, brought him back again and ſeated him in his Traytors Chair, which kind of Houſe of Commons being thus tamed, became eaſily perſwaded by a Pack of Dæmons on both ſides to make a formal ſurrender of that which they would call the Peoples Liberties which could be no more than what was forfeited by Treaſon by them which had Rebelled aganiſt their King.

And where then could remain, lurk or lye hid their ſo longed after third Eſtateſhip, when *Cromwel* had overreached them with an Inſtrument of his own making, and allowed them (eſpecially when he pulled Mr. *Pryn* that had ſo championed the buſineſs as he ſtuft a large Book with arguments to evidence the Supremacy of both Houſes of Parliament, when a little before he had written a Book of the Superiority of the Houſe of Peers in Parliament, and was little to be pardoned when Mr. *Pryn* the Barriſter wrote againſt Mr. *Pryn* a Bencher

of *Lincolns-Inn*) therein not their third Eſtateſhip or any ſuch Republican Title at all, but in lieu thereof cauſed ſome of his Janiſaries amongſt whom was an *Iriſh* Popiſh Prieſt with his Red-coat Musket and Bandaliers to pull out of that Houſe of Commons Mr. *Pryn* and divers other of the Members, and impriſoned him and ſome other in a Room or Alehouſe under *Weſtminſter-Hall* for a night and ſome ſhort time after. And without any belief as is probable of Sir *Edward Cokes* aforeſaid new *Modus tenendi Parliamentum* made a frame or *Modus* of his own with ſix Knights of every County where there were before but two, and in ſome Boroughs fewer than formerly, and at another time pulled out their Members and ſhut up the Houſe doors, & called our *Magna Charta* when it was pleaded *Magna Farta*, which was not the Method præſcribed in Sir *Edward Cokes modus* which Mr. *Pryn* ſaith would be an abſolute or certain way to introduce levelling or a power in the Common people, or to aggrandize the power of a contrived Parliament to govern the King, when that gentle fictitious *modus* is content to allow the King, a *Salvo dom. Regi et ejus Conſilio quod ipſi hujuſmodi Ordinaciones of* 6. 3. or 1. of the Committee *Poſtquam ſcripta fuerint examinare & emendare valeant ſi hoc facere ſciant & valeant, Ita quod hoc fiat tunc & ibidem in pleno Parliamento & de aſſenſu Parliamenti, Et non retro Parliamentum*, which laſt clauſe ſaith Mr. *Pryn* quite ſpoils Altars, and contradicts what the Community of twelve, ſix or three had ordained.

Pryns confutation of the fabulous *modus tenendi Parliamentum* in his brief Regiſter of Parliament Writs.

And King *Edward* the confeſſor whom the many foregoing and after ages have juſtly and truly reported and eſteemed to be neither *Oliver Cromwel* or the miſtaken Sir *Edward Coke* with their ſeveral *modi tenendi Parliamenta*, did not find either of them in his Recherches amongſt all the Laws of the *Mulumtians*, *Mercian*, *Saxon* and *Daniſh* Laws and other ancient Cuſtoms uſed in *England* in his time when he was Monarch thereof, and *Vicarius Summi Regis* ordained Laws *concilio Baronum Angliæ & leges 68 Annos ſopitas excitavit excitatas reparavit reparatas, decoravit decoratas, confirmavis confirmatas vero vocantur Leges Edwardi Regis non quod ipſe primo eas adinveniſſe dicitur ſed cum prætermiſſa fuiſſent & oblivioni penitus dedita a diebus avi ſui Edgari qui 17 Annis regnavit,*

L. L. Edwardi Confeſſor.

vit, ipse Edwardus quia Justa erant & honesta a profundâ Abyssu extravit (as if he had pulled them out of some Holes, Vauts or Cranyes) *eas revocavit & ut suas observandas contradidit*, wherein there is nothing at all that may be *subservient* to the wildest kind of Interpretation of a *modus tenendi Parliamentum* which in the case of so great, Rational and Fundamental general Councel as a Parliament could not be beleived to be omitted in the making and framing K. *Edward* the Confessors Laws, nor can they be conceived or believed to be made at one time but at several times during his Raign, and in these although there are extant a very great commendation of the usefulness of the Law of Friborghs or Tithings there is not a word or any thing to be understood of the Members of the House of Commons in Parliament being a third Estate.

For it appears in *Anno* 1244 in a Parliament holden at *London*, the King consulted with the Bishops apart, the Earls and Barons apart, and the Abbots and Priors apart, about the Popes not performing his promise concerning his removal of the grievances of the Kingdom (where were none of the Common people either as a third Estate or otherwise) which was before his imprisonment in the 48th year of his Raign by some of his Rebellious Barons, and in all his Raign before there is often mention of his Bishops, Earls and Barons, Magnates, and Grand Conseil, but nothing at all of Commons or a formed House of Commons until the 49th year of his Raign, and not long before at a Parliament assembled *totam Nobilitatem Angliæ.*

Dr. *Brady's* compleat History of *England* until the end of the Raign of King *Henry* the third p. 594. & 610.

For before the 42 year of that Kings Raign *Nobiles Angliæ tam viri Ecclesiastici quam seculares, met in a Parliament at* London, *ita quod nunquam tam populosa multitudo ibi antea visa fuit*, where the King informing them of his necessities and requiring an aid, they (not any Commons but the Lords Spiritual and Temporal) began to be very querelous, and remembring old grievances as they called them, demanded the Justiciary, Chancellor and Treasurer might be chosen by the Common Councel of the Kingdom, which by the Records and Annalists was never understood to be any other than the Lords Spiritual and Temporal in Parliament summoned to give their advice to the King as the greatest men of wisdom

wiſdom and *Eſtates* in whom that and the obedience of the Common people were Juſtly included, the choice of which great Offices of State (Sir *Edward Cokes modus tenendi Parliamentum* having not then peeped into the World to help to diſturb it) the Lords Spiritual and Temporal then alledged to appertain unto them, (not unto the Vulgar or Common people) and had been Juſtly and anciently due unto them *ab antiquo Juſtum & conſuetum* which had no longer a date than the enforced Charter of King *John* at *Running Mede*, and the collateral ſtrange ſecurity at the ſame time given for the 25 Conſervators of the Liberties of the people, to maintain its antiquity, than ſomething leſs than 42 years before, which propoſitions the King denying, that Councel was diſſolved without any Claim of the common peoples third Eſtateſhip or being an Eſſential or conſtituent part of the Parliament, or to have *votum deciſivum* therein.

There was no ſuch *Modus tenendi Senatum* or *Parliamentum* then ſo ſtiled when the *Roman Empire* began its riſe, for ſhortly after though their Stile or Title was *Senatus populuſq; Romanus* yet their Hiſtorians tell us that they had their *Patritii*, and *Menenius Agrippa* when the Rable Vulgus or Common people had made an Inſurrection or mutiny and gone tumultuouſly into the Mount *Aventine*, knew better how to bring them again into their Wits by a pleaſant well underſtood fable or Apologue of the head Members Belly and Paunch in their Bodies natural, and our Republican 3 Eſtate men might read and underſtand that thoſe Common peoples Votes or Dictates were able to reach no further than their *Plebiſcita*, and never could arrive unto a *Senatus conſultum*, that when *Julius Cæſar* came into our Brittain before the Incarnation of our Redeemer, and that Nation had planted Colonies here, they left us no *Modus tenendi Senatum*, neither did *Agricola* (Governor here for the *Roman* Colonies who had taught our Nation the uſe of the Roman Gown and Civilities) teach them the *modus tenendi Parliamentum*, or *Senatum* which Sir *Edward Coke* dreamed of, or inform them that the Common people were a third Eſtate, or had an inhærent Soveraignty in them.

Livy.

Tacitus in vita Agricolæ.

In all the Laws of *Dunwallo Mulumtius* there was no mention

mention of Law for a *modus tenendi Parliamentum*, or in those of *Mercia Regina Britonum*, or in the time of the *Heptarchy* of the *Saxon* Kings, or of King *Ethelbert* who raigned here in the year after *Christ* 568. Neither in the Laws of King *Ina* who raigned in *England* about the year 712. Or in the Laws of King *Alured* who began his Raign in *Anno* 871. and ended in *Anno* 900. and declares that he had ordained, collected and put them together, *Atque eaſdem literis mandavit quorum bonam certe partem Majores ſui religioſe coluerunt, multa etiam ſibi digna videntur quæ ſibi obſervari melius commoda videbantur, ea conſulto ſapientum partim antiquanda partino Innovanda videbantur curavit. At quoniam temeritatis videatur ex ſuis ipſius decretis quenquam literarum monumentis conſignare tum etiam ſe quidem apud poſteros Juſtitiæ ſuæ fidem quæ ſe magni fecerit quæcunque in Actis Inæ Gentilis ſui Offæ Merciorum Regis, Ethelfredi magni Ethelbaldi qui primum Anglicos ſacro Baptiſmate, tinctus obſervata digna deprehendit, ea collegit, congeſſit, reliqua plene omiſit.* L. L. Alured.

Or in any of the Books if they were extant ſaid to have been written by that great King, *viz. Breviarium quoddam collectum ex Legibus Trojanorum, Græcorum Britannorum, Saxonum & Danorum* as hath been before mentioned.

Or in or by the Laws of King *Edward* who Raigned here in *Anno* 900. when *iis omnibus quæ reipublicæ præſunt etiam atque etiam mandavit ut omnibus quoad ejus facere poterint æquos ſe præbeant Judices perinde ut in Judiciali libro Scriptum habetur* (no Warrant yet appearing for a *Modus tenendi Parliamentum*, nor a third *Eſtate* overruling or voting their Soveraign) *nec quicquam formident, Jus Commune audacter dicant & litibus ſingulis dici quibus dijudicantur codicibus ſtatuit.* L.L. Edwardi Regis.

Or in the Laws of King *Athelſtan* who Raigned here in the year 924. the *Heptarchy* being then reduced to its priſtine Eſtate of Monarchy, or in or by his Laws in a Councel holden at *Exeter*, or in or by any the Laws of King *Edmond*.

Or in or by any the firſt written Laws ſaid to be of the Brittains in the Raign of their King *Howel Dha* ſtiled the good, or in or by any the Laws of King *Eldred* made in or about the year 948. or in or by any the Laws of King *Edgar* who Raigned about the year 959. and

ſtiled himſelf *favente dei gratia* (not of the people) *totius Angliæ Rex & Imperator*, as he might well do when he was Rowed in a Ship or Barge upon the River *Dee in Wales* by four of his Tributary Kings.

Or by King *Edward* made in or about the year 950. in the *Senatus Conſultum*, League or Agreement made betwixt him and the *Monticuli- -Walliæ Angliæ ſapientum* and *Walliæ conſiliis*.

Or in the pact or agreement made betwixt King *Edmond Ironſide* and *Canutes* the *Dane*, when they were perſwaded to ſpare the dire effect of a Bloody Battle and leave the Event unto a perſonal combate betwixt the King and his *Daniſh* Competitor in the view of both Armies, whereupon they both being ferried over into the near Iſle of *Alney*, the ſtrong *Ironſide* ſo wearied and almoſt vanquiſhed the *Dane*, as he willingly agreed to be content with the moity of the Kingdom.

Neither doth there any thing appear in or by the Laws of our King *Canutus* who Raigned here about the year 1608 *ex ſapientum Conſilio*.

Or in or by any the Laws or Conſtitutions of *William* the *Conqueror*, or any of our ſucceedings Kings or Princes.

And the late new Framers of new Governments calculated for the meridian of their own Profit and Ambitious, Factious deſigns, might have better informed themſelves by the reading thoſe miſchievous Proviſions impoſed at a Parliament at *Oxford* upon King *Henry* the third and his Son Prince *Edward*, which being afterwards by the King and the contending Barons referred to the Arbitration of the King of *France*, a not long before enemy enough of King *Henry* the third with an engagement on both ſides upon Oath to abide by his award, thoſe Proviſions were upon a full hearing before that King and his Great Councel the Parliament at *Paris* in the preſence of all the contending parties adjudged to be null and void as derogatory to Kingly government, as hath been here before expreſſed, that although in thoſe Proviſions there was another ſolemn Jury Impannelled in every *County* to Enquire and Certify all and every the ſuppoſed Breaches of Liberties and their Verdict under their Hands and Seals were returned into the Court of *Chancery*, there is nothing to be found of the contents or complaints

complaints expected, and that there being by thoſe Proviſions to be 3 Parliaments in every year, one at *Michaelmas*, or 2 at *Candlemas*, and a third at the firſt of *June*, and 12 to repreſent the Common people were to be Elected by the Barons, and they that were choſen were none other than Biſhops and Barons and the *hautes homes*, ſo ſmall was then the truſt in the Vulgus or Common people, and ſo nothing at all either in behalf or conſideration of *modus tenendi Parliamentum* or a third *Eſtate* or Soveraignty in the people, or can any rationally beleive that the Clerks in the Houſe of Peers (which is the higheſt Court of Record under their Soveraign, and the houſe of Commons none, but often ſupplicating the other to Record and Inrol their Special matters and Proteſtations, and in the Parliament of 11 *R.* 2. when the five great Lords appealed five other as big as they of High Treaſon, and throwing down their Gauntlets with Armies ready to attend their purpoſes, and the Biſhops had made their proteſtation and forſook their places, might not by a facile inadvertency have ſuffer'd the word Eſtates to have crept under their Pens, and be a means of procreating ſome of the like unfortunate Errors, yet were they now amongſt the living and examined, they would ſwear they intended none other than the Lords Spiritual and Temporal, but ſubordinate to the King, eſpecially when the whole tenor and current of our multitudes of Acts of Parliament, except thoſe few of *Richard* the 3. that murdered his Nephew the young King to get into his Throne by flattering the people, and calling them *Eſtates*, ſeem to have no acquaintance with that ſince miſuſed word or expreſſion, as ſome have done by ſaying when he came once to ſit in Chancery the King can do no wrong.

Dr. *Brady's* Hiſtory of *England*, p. 610. & 611.

Ro. Parl. 11 R. 2.

And it might be more marvellous than the ſeven wonders of *England* that ſo great an Elevation and belief ſhould be in that miſtaken part of Parliament, (when in the ſtorm and tide of a Faction and Sedition driving on a horrid Rebellion in order to the Murder of their King they had in their more than Phariſaical Faſtings and Prayers with Proteſtations to make him a glorious King put him into inſufferable Fetters as it were of Iron) as to impoſe upon him in the 16th year of his Raign to put the power of ſummoning the Parliament once in every three

three years, if he ſhould omit it, to the Lord Chancellor or Keeper of the Great Seal under ſevere penalties upon their Oaths at a certain præfixation of time, and upon his failing to any twelve or more of the Houſe of Peers, and every houſe might chooſe their own Speaker, and Adminiſter the Oaths of Allegiance and Supremacy to their Members, and that therein ſhould be omitted the title of Eſtates or ſome other Character of *Grandetza*, if it had at all been juſtly due unto them.

Ruſhworths Hiſtorical Collections.

When in *December* 1621 the Houſe of Commons in Parliament by a Remonſtrance made unto King *James* (not being able to ſhew any good Law or Reaſon to the contrary) did declare that they did not aſſume to themſelves any power to determine of Religion or War, nor did intend to intrude or encroach upon the Sacred Bounds of his Royal Majeſty, to whom only they acknowledged it did belong to reſolve of Peace and War, and the Marriage of the moſt Noble Prince his Son. But as his Loyal and humble Subjects repreſenting the whole Commons of the Kingdom (who had a large intereſt in the happy and proſperous Eſtate of his Majeſty the Church and Commonwealth did reſolve out of their care and fear truly and plainly to demonſtrate thoſe things unto his Majeſty, which they were not aſſured, could otherwiſe come ſo fully and clearly unto his knowledge without expectation of any other anſwer of his Majeſty concerning thoſe higher points, than what at his good pleaſure, and in his own time ſhould be held fit.

And in that great Ambition and Inſatiable thirſt of *Liberties* and *Priviledges* improperly tumbled and toſſed one upon another, whereby the Subjects of *England* have for ſo many *Ages* and *Centuries* paſt turmoiled and troubled their *Kings* and *Princes* with Seditions and Rebellions, and Ruined themſelves and their Families, a more than ordinary care and heed ought to be taken, as very neceſſary requiſites thereunto, *tam per acquirentem quam concedentem, ſaith the very learned* Reynoldus Curick.

Reynoldus Curick.

1. *Reynoldus Curick, ne contra Jus divinum poſitivum & morale in ejuſque abolitionem quicquam indulgeat vel largiatur.*

2. *Ne contra Jura naturalia & Gentium.*

3. *Ne per conceſſionem Privilegiorum leges fundamentales infringat Inprimis Juratas quia enim leges fundamentales*

ſint

ſint quaſi Anmia & nervi reipublicæ, & neceſſe eſt iis ſublatis Rempublicam corruere.

4. *Ne per privilegium quicquam in præjudicium* Reipub*lice alienetur* which our Laws have heretofore taken an eſpecial care to prevent in the not granting by our *Kings* and *Princes* any *Fair or Market* without an Enquiry firſt had certified by a Writ of *ad quod dampnum in the Negative.*

5. *Ne Privilegium vergat contra utilitatem publicam.*

6. *Ne Privilegium in præjudicium damnum vel Injuriam tertii vergat.*

7. *Ne Prvilegium nimiam inequalitatem inter Subditos Importat aut exemptionem aut Immunitatem a muneribus Ordinariis peculiarem,* which in our Laws are to be granted to men above 70 years of Age not to be impannelled on a *Jury.*

8. *Ne ſuper lite pendente nec contra rem Judicatum Privilegium ullum detur, taliter enim Privilegium datum nullum eſt.*

9. *Ne per Privilegium Monopolium conſtituetur quippe Legibus aliis antiquis & novis damnatum ac ſua natura omnibus merito exoſum.*

10. *Ne per Privilegium Sontes a Pœnis promeritis eximantur.*

11. *Ut Privilegia ſint rara potius quam nimia quæ perinde ac multa leges vitandæ ſunt.*

Ex Privilegiorum nimietate omnes illi Privilegiorum abuſus reſultant & realia dum per familias & ſucceſſiones traduntur paulatim eo tendunt ut Principem non agnoſcant nullaque in re obtemperent perſonalia minus quidem diuturne ſunt ſed multitudine vileſcunt. Et in quos nimia congeruntur fere præcipitant maleque ſua opprimunt renumerativa ſunt quamvis minus ſunt invidioſa ingratos tamen & ſuperbos efficiunt Conventionalia venditioni propria ſunt, nec in beneficio ponunt etiam quæ parvo ſunt precio compararunt uti ſcribit Adam Contzen. lib. 5. polit. ca. 18. & 56. nulla magis re quam privilegiis contra dominos ſervi, contra patronos invaleſcunt Clientes, nec dicere timuit omnium quæ a ducentis Annis quæ principatus Germaniæ Civitateſque concuſſerunt ſeditionum originem a privilegiis multis magniſque manaſſe; hinc Fredericus Mindanus l. 2. de mand. ca. 13. n. 8. exclamat utinam divi mortalium, Opt.

Max. Imperatoris noſtri non nimium privilegiorum indulſiſſent vel conceſſiſſent, hac enim via tota Italia, polonia, & aliæ potentiſſimæ provinciæ Imperii Romani frænam excuſſerunt ut itaque omne incommodum evitetur adſit modus qui ſi abſit.

Vertitur liberalitas in exitium tacitus lib. 3. Hiſtorium.

Requiritur etiam ex parte acquirentis.

1. *Ne per fraudem aut mendacium privilegium impoteſt.*

2. *Ne per vim aut metum.*

3. *Ut virtute potius meritiſque quam nuda pecunia privilegia acquirantur.*

4. *Ut quamvis ad privilegium alicujus acquiſitionem regulariter citatio non requiratur, ſi tamen privilegium illud vergat in præjudicium tertii ſimile privilegium quocunque modo habentis is de cujus præjudicio agitur adcibetur.*

5. *Ut privilegium adverſus aliquem obtentum legitime eidem et Judici ordinario iſtius loco inſinuetur.*

6. *Ut in ſcripto vel inſtrumento privilegium obtineatur.*

7. *Ne impetrentur privilegia obſcura.*

8. *Ne pecantur privilegia ludicra inepta et ignominioſa aut am antea Jure communi conceſſa.*

9. *Ut privilegia impetrata bene quoque ſint clauſulata.*

10. *Ne privilegia quæ petuntur ſint de genere prohibitorum nec ambitioſa.*

And as to the end of Priviledges they ought to be,

1. *Bonum publicum.*

2. *Decus & gloria principis.*

3. *Stricti Juris Temperamentum.*

4. *Meritorum æque Recompenſatio & ad bene agendum invitatio.*

5. *Dignitatum, Ordinum et Munerum publicorum conſervatio.*

6. *Perſonarum et rerum ſecundum omnes circumſtantias juſtus reſpectus.*

As to the effect of Priviledges.

1. *Quod idem operentur atque Lex et Jus Commune.*

2. *Idem operatur quod conſuetudo vel Statutum.*

3. *Potentius eſt Jure Communi.*

4. *Fortius operatur quam pactum.*

5. *Immunitatem a muneribus perſonalibus et Civilibus præſtant,* as in our Laws the Kings protections of his Servants do operate.

All which Requiſites in the pretended obtainers will not be warranted by the invitation of the Rebel Brethren of *Scotland,* or by their Treaty with the Bleſſed Martyr at *Rippen* when he was ſo neceſſitated, or by the

the long lasting Rebellion of the *Englisb* Parliament joining with them and obtaining their help, or by the many underminings of Monarchy, and pretending false *Priviledges*, or the murder of him afterwards, when he was at his Arraignment told by that impudent Rebel *Bradshaw* (not then stiling them a third *Estate*) bidding his *Soveraign* hold his Peace, for that the Vote of the House of Commons was the *Reason* of the Kingdom.

When it ought every where to be acknowledged by the Rules of Reason and Truth that *Privilegia* are so called a *Privando Leges*, and it should alwaies be believed that *peccandi potentia non est libertas, neque pars libertatis est indubitata doctrina. Et quæ omnium pene graviorum Authorum suffragio nititur hanc habet Expresse D. Bonaventure in 2 distinct. q. 3. Nec habet tantum sed probat plurimis rationibus hanc tradit D. Augustinus lib. de Arbitr. cap. 1. ubi docet peccandi potentiam non modo non esse libertatem nec partem libertatis sed esse defectum ejus, Et dixit D. Tho. qui. 1. P. 62. Quest. dixit Angelos quia peccare non possunt liberiores esse nobis qui peccare possunt.*

Du Fresne glossar.

Gibieuf de libertate dei & Creatur.

And *Cicero* defineth liberty to be *potestas vivendi ut velint at non vivit ut velit, qui juxta sensus carnis suæ & Cupiditatis, sed is solummodo qui vivit juxta rationem; Plutarchus & Epictetus eandem Libertatis definitionem Nobis dederunt,* not that *liberum esse debet dici cui nec impedimentum præberi possit volenti, nec vis inferri volenti,* but if none of the fancied vast liberties which the too many of our State or Government Menders would entitle their own evil designs, and entail upon all that shall be so foolishly wicked as to be deluded by them, and the costly searches of Mr. *William Pettit* amounting by his own Report unto more than five hundred pounds in all that could be found in any the Books and Manuscripts publick or private of *England*, cannot reach or come so near as unto a probability that there ever were in the *Brittish, Roman, Saxon, Danish* or *Norman* Raigns of our Kings and Princes, and their many Royal Successors ever since or long before that, since the Creation of the World either in Parliament, or without any mention of a third *Estate* inherent in the people, and they must be content to go a begging for a belief in some lately discovered *Island*, where they may dream any such stuff may be found either as their *modus tenendi Parliamentum* or a third

third *Estate*, as Subjects at the same time governing their Kings and Princes, when by their Oaths of Allegiance and Supremacy, they are bound alwaies to be obedient unto them as (next under God) their Supreme Head and Governor.

And may curse their fate that every thing their scrutinies can assist them with, should not with wresting, wringing and false and senseless Interpretations appear at all to be for their purposes, but every thing clearly against them, and sorrowfully repent that they or their Predecessors had so unhappily busied themselves in destroying so many Props of the Monarchick Government, as the Court of Star Chamber wherein did sometimes sit as Judges, the Lord Chancellor, Lord Treasurer, and the Chief Judges of both the Benches and the Barons of the *Exchequer* the Archbishop of *Canterbury*, and divers of the Kings Privy Council, who as Judges in seveveral Courts did sit there upon special occasions, and the procuring the King to take away the High Commission Court in their miscarried designs of Levelling the Hierarchy and order of Bishops; The want of which two very necessary and useful Courts hath suffred the Nation to be overflown with all manner of wickedness and Impiety.

And in that their over-hasty carreer of breaking our *English* Monarchy like a Glass into many small or little peices needed not to have been so hasty but have paused a little while & have considered, that as unto the circumstances of Time, Place, Number of Persons, Usages and Customs in a variety of contingencies, being the only ancient, proper and efficient cause of summoning Parliaments, adjorning or dissolving them, there could not be a probability of a *modus tenendi Parliamentum* either in King *Edward* the *Confessors* Raign, or before or after, for that our Parliament *Rolls* and *Records* do *una voce* plainly declare against it, and shew that many times Parliaments have been holden in the absence of our Kings by the *Prince* his *Eldest Son*, or by some other of their *Sons* as *Lieutenants* or *Guardians* of their *Kingdom*, or by the *Queen Mother* assisted by the Kings *Justitary* or other Commissioners, during the Imprisonment of King *Richard* the first, or by the *Queen Consort of King John* in his absence, or by King *Henry* the 4th in his usurpation upon King *Richard* the second, when he unjustly made use of a Parliament sum-

Ro. Parl.

ſummoned by him; And there could not be a third *Eſtate* in the Raign of King *Charles* the ſecond when he had as aforeſaid ſo unfortunately been ill adviſed to exchange the Nerves, Sinews, Strength and Honour of his Crown and Government for a miſtaken Recompence of an Exciſe upon Ale, Beer, and Syder, and then there were but two *Eſtates, viz.* The *Lords Spiritual* and *Temporal* ſubordinate unto their Soveraign, and it would be a difficulty inſuperable to find any Truth, Reaſon, Evidence, Probability or Poſſibility that there is or ought to be a Soveraignty inhærent in the people, or if ſuch Improbabilities were or could be, what Method or contenting Equal diſtribution could be made thereof, amongſt Learned and Unlearned, Ambitious, Rich, and Poor, Rude, Ignorant, or better tempered vicious or virtuous Women and Children or Fooles, Madmen in their intervals or without, when ſome have not improbably calculated the number of the Kings Subjects in *England* only to be not much under five Millions, beſides theſe vaſt numbers in *Scotland* and *Ireland*; And who upon any or many diſcords like to happen ſhould be the pacifying Reconciler, *Juſticiary* or *Umpire* betwixt them, and what Charters, Agreements or Surrenders ſhould be contrived or put in writing betwixt them, concerning the Right uſe or diſtribution of that never to be proved inhærent *Soveraignty* in the people taking as Subjects the Oaths of Allegiance and Supremacy, or that ever it was attempted before our *Engliſh* Rebellions either in *England*, *Scotland* or *Ireland*, or can they give us any reaſon or demonſtration that it was ever allowed of, or that any pact or Agreement was made to confirm it.

Neither is there any *Modus tenendi Parliamentum*, or any ſuch thing or matter as a three governing *Eſtate* in the ſolemn Recognition made in a Parliament at *Clarenden* in the Raign of King *Henry* the ſecond of the *Anitæ Conſuetudines* or Laws uſed in the time or Raign of his Grand-Father King *Henry* the firſt, which the Archbiſhops and Biſhops *verbo veritatis ſine dolo, & malo Ingenio* promiſed faithfully to obey, and the Earls and Barons likewiſe.

Dr. *Brady's* Hiſtory of *England & Quadilogus*

And will be a Priviledge never taught to the *Athenians* (ſometimes the wiſer part of *Greece* by their great Legiſlator *Solon*, who after he had made them ſome

Plutarch in vita Solonis

Laws feigned a Voyage or Journey to *Salamia*, and cauſed them to ſwear to obſerve them until his Return and abſented himſelf the longer becauſe he would not have them break them, as *Piſiſtratus* the Tyrant did afterwards to his own advantage perſwade them to do; the *Spartans* under their great Legiſlator *Lycurgus* and the many other little Commonwealths of *Achaia* firſt fooled by *Philip* of *Macedon*, afterwards by *Alexander* the Great his Son, who conquered all that part of the World but *Diogenes* the Philoſopher in his *Tub*, now all into ſlavery the *Ottoman Empire*, had long before better buſineſs to trouble their Heads with than the fond Imagination of a Soveraignty inhærent in themſelves, although one of their moſt Sacred Laws in their Ten Tables was, *Sius populi ſit Suprema Lex ne quid detrimenti res publica capiat*, Neither did the *Romans* thoſe *Cordatiſſimi Mortales*, (as the learned *Pettus Cunæus* hath ſtiled them) and moſt watchful of their Priviledges, the wary long laſting Republick of *Venice* or the later Confederates of the United Provinces ever trouble themſelves or any other with ſuch reaſonleſs incredible Whimſies, it being impoſſible that Subject and Soveraignty ſhould *conſtare vel conſiſtere in uno eodenque Subjecto*, neither when *Jeroboam* drew away the Ten Tribes of *Iſrael* from the Obedience of *Rehoboam*, and made as the Holy Scripture ſaith all *Iſrael* to ſin, was there any ſuch opinion amongſt their Cabaliſtical Doctrines?

Petrus Cunæus de Republica Hebræorum

The Republicks of *Venice* & *Holland* could not be capable of Leagues and Treaties with Monarch and Forreign Princes as unto War and commerce, nor the little Common-wealths of *Genoa* and *Geneva*, or thoſe many *Imperial* free Cities or Towns in or near *Germany*, or the *Electors* of the *Empire* or the *Hanſe Towns*, ſhould they give entertainment unto ſuch Fancies and Fopperies as a Soveraignty in the people, neither would the *Cantons* of of *Helvetia* or *Switzerland* think themſelves well uſed to be obliged to ſuch a Parcel of unpracticable folly.

And if thoſe Egregious Cavillators can find no way of retreat for thoſe their notorious follies but to fly for Succour unto præſcription, that will (if they could as they will never be able to prove it (yeild them as little comfort for a Rebellious electing of ſome few Members into the

the Houſe of Commons firſt formed as unto a ſmall number of them during the Impriſonment of King *Henry* the third by *Montforts* Army of Rebels that would not mount unto a Preſcription *quia mala fide*, and if it could have come up to any thing like a Preſcription, there would be no reaſon or need for an Election of Members to be in the Houſe of Commons in Parliament by the *Sheriffs* by the Mandate or Warrant of the Kings Writs, or how could a party drawn out of ſuch a pretended inhærent Soveraignty in the people, rationally ſubſiſt when thoſe their untruly ſuppoſed Rights or Priviledges cannot upon the moſt exact enquiry be found or diſcerned amongſt all the Records, Charters and Patents of our Kings and Princes, or thoſe of any of our Neighbour Nations of *Chriſtendom*, or of any other Nation, White, Black, or Tawney, but do plainly contradict it and declare the quite contrary, and will manifeſt it, to be the greateſt Cheat and Villany that ever was put upon the Sons and Daughters of mankind either as unto a pretended inhærent Soveraignty or a third *Eſtate*, or the figment of a *Modus tenendi Parliamentum*.

Or how could any of our Kings Rightly and Juſtly ſtile them a third *Eſtate* when they could not chooſe a Speaker without their Licenſe, nor leavy their Wages without his Writs directed to the *Sheriffs* for that purpoſe, nor puniſh any that had arreſted any of them or their mænial Servants whilſt they attended the King in their Service for him and their own good, and at all conferences either in their own Houſe or in the Houſe of Peers were to ſtand uncovered when the Lords ſate covered, could not grant Tax or Aid without the conſent of the Lords Spiritual and Temporal, and in King *Edward* 1. His Raign and ſome of our after Kings have refuſed to intermeddle or give advice in matters of Peace and War, but deſired that the Councel of the Lords as the moſt able might be taken therein. In the 34, and 35. *H.* 8. the Knights and Burgeſſes of *Cheſter* had no title of *Eſtates*, but the ſame King in the Act of Parliament declaring in what Order and Manner the Lords ſhould ſit in the Houſe of Peers in Parliament, made no appointment for or concerning any of the Houſe of Commons, as if they had been no Eſſential part of Parliament, & that in the great caſe of Mr. *George Ferrars* a Member of

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the Houſe of Commons as wel as a Servant of that Kings upon a complaint that he had been impriſoned, and the Kings Serjeant at Arms attending their Speaker, was beaten and abuſed the Houſe of Commons in Parliament complained to the Houſe of Lords who remitted it to them again, and no remedy or puniſhment could be had until it came to the King himſelf, who without any mention or Title given unto them of a third *Eſtateſhip* was pleaſed to grant it. And in Queen *Maries* Raign 39. of their Members were Indicted by her for not attending the Parliament, yet none either claimed a third *Eſtateſhip* or to be tryed by their Peers. Queen *Elizabeth* impriſoned ſome, and at ſeveral times charged them and their Speaker not to intermeddle with matters of Church or State, but all the Maſters of any Underſtanding, Reaſon or Common ſenſe ought to underſtand them to be no other than Petitioners and her Leige-men.

And it is well known that King *James* in his Inſtructions to his Son Prince *Henry*, and his learned anſwer to Cardinal *Peronius* does aſſert the *Jus Regium* to be the Right of Kings from God immediately, without any notice taken of a third Eſtate.

But if thoſe Kingly Government or Monarchy Reformers would but give their contemplations and deſigns ſome little Reſpite, they might eaſily perceive the frailty of the Materials out of which they mould would the Members of the Houſe of Commons into a third Eſtate, and might find Evidenee, Records, Reaſon and Law enough if they have not forſworn them to deſiſt from ſuch an impoſſibility.

And it might better become their own buſying themſelves in the government of the Kingdom, wherein they have no manner of skill or knowledge (to conſult the conſequences and the Events, and having no knowledge of the cauſes, *Mediume*, contengencies or treacheries too much or too often attendant in Princes affairs not ſeldom alſo miſcarrying for the Sins of the people, or of ſome *Jonas* in the Ship deſerving a puniſhment,) ought more ſeriouſly to weigh and conſider how little the people of *England* will think themſelves hereafter beholding or obliged unto them, when in a popular and aboundance of Ignorance accompanied with ſin and wickedneſs they adviſed King *Charles* the Second to diſſolve by

by Act of Parliament theſe Nerves and Sinews of the Crown, which the Judges of *England* in the Raigns of King *James* the firſt and King *Charles* the firſt upon ſeveral conſults have declared to be ſo inſeparable to the Crown of *England* as the moſt potent and binding Act of Parliament that could be made will never be able to diſunite them; when they have thereby againſt their wills converted thoſe Tenures of Honour and ſafety to their *King*, and Protection, peace and plenty to his people, and the Releifs and Herriots due and payable to the King, into a Chimney-Money granted afterwards by another Act of Parliament, and what a profitable bargain they have made by forfeiture of all the Lands which they held by and under their *Feudal Laws* converted into Socage, when by a Law made by King *Athelſtan* ever plow Land in Socage was to find in Service upon occaſion of War *binos ornatos atque inſtructos Equites*, when by converting all the Tenures *in Capite* (that of the Peers and Grand Serjeants excepted) into Socage they have given the King a greater Revenue than they intended far exceeding the Revenue of the tenures *in Capite*, (the honour of the King and ſafety of himſelf and the people excepted. *LL. Athelſtani*

And that in thoſe early times none were imployed in Commiſſions or Places of truſt by our Kings and their Laws but Knights holding by Tenure *in Capite* immediately, or mediately that King *Henry* the 2d in ſome of his Laws declared none to be *liberi Homines* but thoſe that were Military, and that if the Socage men or Tenants of all the Poſſeſſors of Lands, and Tenements now in *England* and *Ireland* muſt be in no better a capacity than as *Villani*, *Servi*, *Bordarii*, *Cotarii*, and Tenants at will under domineering Landlords and be ſhut out of the bleſſings of our *Magna Carta* and *Carta de Foreſta*, and left as the people were in the Raign of *William* the *Conqueror*, *William Rufus* and *Henry* the firſt to the dire puniſhments (caſes of Treaſon and Felony only excepted) of plucking out of Eyes and cutting off the Genitals Legs or Noſes of the Offenders. Dr. *Brady's Hiſtory of* England.

And it might be a meet queſtion among the *Heralds* upon what foundation more than 1000 *Knights Baronets* do now ſtand ſeeing that *Ireland* is turnd into a *Socage Tenure*, when the firſt original of them was *Seldens tit. Honor.*

to find *in Capite* ſo many men at Arms in the Kings Service.

And having with the Prophet *Jeremy* called, cried out and adviſed many of my friends *ſtare ſuper vias antiquas & inquirere veritatem*, I lament and bewail that the Monarchy of *England* that for more than 1600 years laſt paſt hath been ſo great & glorious amongſt her Neighbour Nations, and hath in this our laſt Century of years been ſo unhappy ever ſince the beginning of the Raign of King *John*, when *Hubert* Archbiſhop of *Canterbury* had in his Oration at the Coronation of that infortunate King declared to the Nobility and people there aſ-
Mat. Paris. ſembled that he was created King by the Election of the people and being reprehended and blamed for it by ſome of the Nobility, was at that Inſtant or before that Aſſembly forced to excuſe that inadviſed Speech as well as he could by ſaying he had ſo done it as knowing his force, nature it might induce him to govern the more orderly, although he might have known that the King-
Dr. *Brady's History of* England *p.* 457. dom of *England* was hereditary and that King *Richard* the firſt had by his laſt Will and Teſtament *deviſed it unto him with all other his Dominions, and cauſed the Nobility there preſent to ſwear fealty unto him.*

Which poyſon ſo thrown into our Body Politick, and by degrees creeping into it may well be believed to have ſo fixed the venom thereof as it hath from age to age been the original Cauſe and fomenter of the very many miſchiefs and diſcords (ſome Intervals of quiet intervening) that have until the late long Parliament Rebellion and the Murder of King *Charles* the firſt and ever ſince unto this very day by thoſe unhappy diſcords hapned in our Parliaments General *Conſiliums Colloquiums* or conferences betwixt our Kings and Princes,and a ſelect number of his Subjects for mutual Aids in a general and reciprocal concernment the beſt and moſt happy conſtitution that ever was or could be practiſed in any Kingdom if it could have eſcaped that *Series malorum Concatenation* of diſcords that have of late been too often their Concomitants either by ſome averſions to Loyalty, or by the Grand miſtakes in the practiſe thereof, and by the Common people making the Parliaments of later times to be as their King, and he that is and ſhould be their King little more than an extraordinary fellow Subject.

§. 24.

A Series or accompt of the many Seditions, Rebellions and Diſcords that have ſucceſſively happened ſince the beginning of the Raign of King Henry 2. *to our ſucceeding Kings and Princes until this preſent Age wherein we now live, by miſtaken and never to be warranted principles.*

A Right obſervation whereof, may gradually lead us to the late bleſſed Martyrs fatal Murther, and that Peſtiferous Doctrine that did make the Vulgus and ignorant people believe that there is and ought to be an Inhærent Soveraignty in the people, it being not unuſeful for after ages to underſtand the beginnings and progreſs thereof, which for ought appears had its firſt original from *Thomas Becket*, Archbiſhop of *Canterbury*, who had in the Raign of King *H.* 2. and at the making the Aſſiſe and Conſtitutions at *Clarendon*, ſuch an ambition and unwarrantable loftineſs of Spirit as after the King had in the preſence of the ſaid Archbiſhop and all the Biſhops, Earls, and Barons of *Eng.* received their Recognitions & promiſe to perform and obey them, they were ſent unto the Pope to have his approbation, who returned them to ſome with an *hoc damnavit & toleravit* as unto others.

And *Stephen Langton* Archbiſhop of *Canterbury* promoted by the Pope againſt the will of King *John*, diſcovering as a ſingular rarity the Charter of liberties granted by King *Henry* the firſt, did ſo pleaſe ſome diſcontented Barons, as they ſwore upon the Altar they would live and dye in the obtaining of them, begot a Spirit of unquietneſs in them, which could not be allayed until the ſaid *Avitæ conſuetudines* were recognized and ratified by King *Henry* ſecond by the conſtitutions at *Clarendon*, which begetting ſome little quiet, broke out again in a worſe manner upon his Son King *John* in the conſtraint put upon him at *Running Mede*, where thoſe tumultuous Barons with a great Army in battel Array, the better to attain their ſaid Charter of liberties, had promiſed to pay his debts, but yet intended it.

And were ſo faithleſs and unwilling to be his Subjects, as what they by force extorted from that oppreſſed Prince could never truly merit the title of a Charter, although he had been conſtrained ſo to call it, and the King of *France*

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in his Exception to his award made many years after had ſo ſtilled it, yet thoſe undutiful doings of theirs were diſliked by divers of the Biſhops that had been the Popes, and thoſe Rebellious Barons Favourites, who it ſeems did ſo little intend what they undertook, as ſome of the Biſhops could not deny to certify as followeth.

Ro. pat. 17. Johann. m. 20. dors.

Omnibus Epiſc. fidelibus Stephanus Dei gra. Cant. Archiep. Primas, & Sanctæ Romanæ Eccleſiæ Card. Henr. Dublin. Archieq. Will. London, Petrus Winton, Joſcelin Bathon & Glaſton Hugo Lincoln. Walter. Wigorn. Will. Coventr. Richardus Ciceſtr. & Magiſter pond Domini papæ Sub-diaconus & familiaris, Salutem, Noverit Univerſitas veſtra quod quando facta fuit pax inter donum Regem Johannem & Barones Angliæ de diſcordia inter eas orta, Iidem Barones nobis præſentibus & audientibus promiſerunt dom. Regi quod quamcunque ſecuritatem haberi vellet ab iis pace illa obſervanda ipſi ei habere facerent præter caſtella & obſides (they having forced him to grant them Caſtles as Pledges) *Poſtea vero quando dom. Rex petit ab iis ut talem cartem ei facerent omnibus, &c. Sciatis nos aſtrictos eſſe per ſacramentum & homagium dom. noſtro Johanni Regi Anglæ de fide ei ſervanda de vita & Membris & terreno honore ſuo contra omnes homines qui vivere poſſint & mori. Et ad Jura ſua & heredum ſuorum ad regnum ſuum cuſtodiend. & defend. ipſi ei facere nollent. Et in hujus rei teſtimonium id ipſum per hoc ſcriptum proteſtamur.*

Although he had been ſo careful to perform the agreement on his part as he directed his Writs unto his Subjects in every County in the words following, *viz. Rex, &c. vic. Foreſtar viridar. Cuſtodibus Ripariorum & omnibus Ballivis ſuis in eodem Com. Jaltem, Sciatis pacem firmam eſſe reformatam per dei gratiam inter nos Barones & liberos homines regni noſtri ſicut audire poteritis, Et inde per Cartam noſtram quam inde fieri fecerimus quam etiam legi publice preceperimus per totam Ballivam veſtram & firmiter tenendi volentes, & diſtricte præcipientes quod tu vic omnes de Balliva tua ſecundum formam cartæ prædictæ Jurare facias 25 Baronibus de quibus mentio ſit in Carta prædicta ad mandatum eorundem vel majoris partis eorum ipſis, vel ad quos ad hoc attornaverint per Literas ſuas patentes, Et ad diem & locum quos ad hoc faciendum providerint prædicti Barones vel Attornati ab eis ad hoc volumus etiam & præcipimus quod 12 Milites de Com. tuo qui eligentur de ipſo Com. veſtri primo Com. qui tenebatur poſt ſuſceptione literarum iſtarum in partibus tuis de inquirendis*

Ro. pat. 17. Johannis m. 23. in dors.

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pravas conſuetudines tam de vic. quam de eorum Miniſtris. Foreſtis, Foreſtariis, Warrennis, viridariis & eorum Cuſtodibus & eis delendis ſicut in ipſa Carta continetur, vos igitur omnes ſicut nos & honorem noſtrum diligitis & pacem regni noſtri omnia in Carta contenta inviolabiliter obſervatis & ab omnibus obſervi faciatis, ne pro defectu veſtrum aut per exceſſum noſtrum pacem regni noſtri, quod dominus avertat, iterum turbari contingat, Et tu vic. pacem noſtram per totam ballivam tuam proclamari facias & firmiter teneri præcipias. Et in hujus &c. Vobis mittimus Teſte me ipſo apud Runnimed. 190 die Iunii Anno regni noſtro 17.

And a Charter thus gained and forced by Rebels not deſigned and deſired by the King for ought appears and infringed only notwithſtanding by the Rebels themſelves came after to be ſo little valued or eſteemed to be valid or worthy of a confirmation, by any Parliament or approbation of any of our Kings or Princes in their very many Parliaments ever ſince, as that of *Magna Charta* made in the 9th year of the Raign of King *Henry* the 3 granting thoſe many Liberties of the people of *England*, hath been 32 times confirmed, and that of his Father King *John* being after in that grand and dire *Anathemation* in the later end of the Raign of King *Henry* the third enforced upon him was only read before them unto him, and was in that our late Rebellious Parliament by the Agitators in *Annis* 3 & 4 *Caroli* not ſo much as taken notice of, but altogether ecclipſed and ſilenced as a Charter not deſerving a recommendation to poſterity.

King *Richard* the ſecond, (*Henry* the fourth having ſucceeded and depoſed him) after his ſaid Depoſition was only ſtiled Chevalier, as the Record following will mention.

Inter Fines levatos tempore Henr. 4. in Com. Not. inter alia ſic continetur ut Sequitur.

Hæc eſt finalis concordia facta in cur. Dom. Reg. (H. 4.) apud Weſtm. A die ſci. Martini in quindecim dies An Reg Dom Regis Angliæ & Franciæ primo coram Willo. Thirning, Willielmo Rickhill, Johanne Markham, Willielmo Hankford (it being that *William Hankford* or *William Thirning* that notwithſtanding their own Rebellions, could in ſome of the Reports or year Books of that Kings Raign adventure to ſay that the Laws were never better adminiſtred then at that time) *& Willielmo Brenkſlie Juſtic. Et poſtea A*

die Paſchæ in quindecim dies Anno regni ejuſdem Regis Henrici quarto ibidem conceſ. & concordat. fuit coram eiſdem Juſtic. & aliis Domini Regis fidelibus tunc ibi præſentibus, inter Thomam Rempſon quer. & Richardum nup. Regen Angliæ Chivaler defercient de maneriis de Bingham, Clipſton & the Hill Juxta plumton cum pertinentiis ac 32. meſſuag. 34 virgat. terræ, 50. Acr. prati & 10 s. Reddit. cum pertinentiis in Clipſton & the Hill Juxta Plumton, Codgrave Kynalton Outhorp & Newton, Et de advocatione de Bingham unde placitum prædictum ſcilicet quod prædict. Nuper Rex recogn. prædict. maneria eſſe Jus ipſius Thomæ habend. & tenendi dicto Thomæ & hæred. de corpore ſuo de dominis feodi illius per ſervitia quæ ad advocationem prædict. pertinent in perpetuum, &c. Et pro hoc Recogn, &c. Idem Thomas dedit prædicto nuper Regi quingentas martas Argenti.

After the troubles of which King *Henry* the fourths uſurpation, followed the conqueſt of *France* by King *Henry* the 5th his Son, and the troubleſome raign of King *Henry* the 6th reviving again the Rebellion of *Jack Cade*, managed for the Intereſt and by the deſign of the Houſe and Family of *York*, begun again to wake the long before laid to ſleep conſervatorſhip of Liberties, which muſt be ſaith Mr. *Pryn* of 12 of the Nobility, 6. of the Commons, and ſo from one unto another, until the conſervatorſhip of the Liberties of the people came to take its reſt in the houſe and Family of *York*, that was in deed the right heir of the Crown of *England*, and the Kings thereof, the Givers and Protectors of the Liberties of the People, which King *Edward* 4. well underſtood when he told Sir *James Strangwaies* the Speaker of the Houſe of Commons in Parliament in theſe words following, *viz.*

Pryns 4th part of the Regiſter of Parliamentary Writs.

James Strangwaies, *and ye that be come from the Commons of this my land for the true hearts and tender conſideration they have had to my Right and Title, that I and my Anceſtors have had to the Crown of this Realm, the which from us hath been long withheld, and now thanked be almighty God of whoſe grace groweth all Victory by your true hearts and great aſſiſtance, I am reſtored to that that is my Right and Title; Wherefore I thank you as heartily as I can, and for the tender and true hearts ye have ſhewed unto me, and that ye have tenderly had in Remembrance the correction of the horrible Murder, and Cruel death of my Lord and Father,*

Ro. Parl. 1 E. 4.

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my Brother Rutland, *and my Coſen of* Salisbury *and others; And I thank you right heartily, and I ſhall be unto you by the grace of Almighty God, as Good and Gracious a Soveraign Lord as ever was any my noble progenitors to their Subjects and Leigement, and for the faithful and loving hearts and alſo the great labour that you have born and ſuſtained towards me in the recovering of my Right and Title which I now poſſeſs. I thank God with all my heart, and if I had any better to reward you withal than my Body, you ſhould have it, the which ſhall alwaies be ready for your defence, neither ſparing nor letting for no Jeopardy; praying you alſo of your hearty aſſiſtance and continuance as I ſhall be. unto you very righteous and loving Leige Lord.*

And the bloody Wars betwixt the two great contending Families of *York* and *Lancaſter*, thoſe Factions tired on both ſides, and the Attainders and Confiſcations on both ſides, in the Raign of King *Edward* the fourth, with the Marriage of King *Henry* the ſeventh, with the Daughter and heir of King *Edward* the fourth, his two Sons being Murdered by their Uncle *Richard* the third, who died without Iſſue, and King *Henry* the eight his quarrelling with the Pope, and confiſcating the monaſteries and Abbies, gratifying many of the Nobility with much of their Lands, and much obliging them thereby, and enriching many of the Tenents and making them and their families to be Gentlemen that durſt not own or approach that Title before, and the ſhort Raigns of King *Edward 6.* and Q *Mary* buſied by the one in the ſetting up of the Proteſtant Religion, and the other in reducing Popery to its former Station, gave a long tranquility from State diſturbances augmented by Q. *Elizabeths* 44 years glorious & peaceable Raign, not only in the propagation & defence of it here, but in many other parts of Chriſtendom, and gave a peaceable entrance to King *James* her next Heir and Succeſſor, who met with two Grand Aſſaults of Treaſon, the one of Sr. *Walter Rawleigh*, and others, who fetching that Lawleſs Doctrine and Peice of Law ſome hundreds of years before ſet up, that allegiance is due to the Crown, and not to the perſon of the King, long before condemned in Parliament in the example of *Hugh le Deſpencer*, in the Raign of King *Edward* the third, and the other being the Gunpowder Treaſon, was miraculouſly diſcover'ed almoſt, in the very inſtant

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of executing thereof, and although villainously Wicked and Horrid fell much short of our last long Rebellion both as unto the length of time and Hypocrisy, shedding of Blood, Massacres, abuse of God and the Holy Scriptures, and the levelling and utter destruction of a most Ancient and Glorious Monarchy.

King *James* in the 22th year of his Raign over *England* departing this life, not by taking an ill advised Medicine, to expel an Ague, as was villainously reported, but upon a careful examination could never be proved to have been other than Innocent, though recommended by the Earl of *Warwick* then as it after appeared none of our Monarchy Favorites, King *Charles* the first his Son succeeding shortly after, espoused the Lady *Henrietta Mary* Daughter of *Henry* the fourth King of *France* made a League Offensive and Defensive with the States of the *United Provinces*, and besides two well exercised Regiments under English Commanders paid by the *Dutch*, sent unto them four gallant Regiments more under the several Commands of the Earls of *Oxford*, *Essex* and *Southampton*, and Lord *Willoughby* of *Eresby*, and a well Rig'd and Furnished Fleet against the King of *Spain* landed at *Cales*, whence without doing the business designed they returned home; The Duke of *Buckingham* and the Earl of *Bristol* in the mean time accusing in Parliament each other of Treason and Misdemeanors, acted whilst the King as Prince was in *Spain* the one for the promoting the Marriage with the *Infanta* of *Spain*, the other for hindering of it, whereupon followed the imprisonment of the Earl of *Bristol* in the Tower of *London*; and the King being put to great charges in his sending Embassadors and mediation in the obtaining a considerable part of the last *Palatinate* to be restored to his Brother in Law, and to be made an eighth *Elector* to be joyned with the former seven, and with the yearly payment of giving great pensions to the distressed King and Queen of *Bohemia* his four Nephews and two Neices, under the burden of great Debts and Necessities much augmented by the costly furnishing out a Fleet of Ships, and a gallant Army to invade the Isle of *Ree* in *France*, to divert the King of *France* from subduing of *Rochel* the Inhabitants whereof had supplicated him for Aid, which produced none other effect but the

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loſs of all his hopes therein by the ill conduct of the Admiral to the loſs of ſome gallant men, yet was ſo unwilling to forſake thoſe oppreſſed Proteſtants, as he after ſent two if not three other Fleets ſtrongly furniſhed Ships with Men, Arms and Ammunition to relieve them under more Skilful Commanders, who endeavouring all that men could do, were conſtrained to return home and leave thoſe Proteſtants to the over-powering forces by Land of the King of *France* and in the midſt of his own preſſures and great wants of Money, having no more of his own Royal Revenue to ſupport theſe expences than about 800000 *l.* ſterling *per Annum* for his Revenue, much whereof by the uſual Lickings and Cheats of his Truſtees, Officers and Receivers could never find the way to his Coffers.

And had been ſo inceſſant in his deſires to help thoſe oppreſſed Proteſtants of *France* as to procure Money to aſſiſt them in that his laſt attempt, he ſending to the Citizens of *London* to lend him 100000 *l.* They anſwered they could not for that they had heretofore lent unto his Father King *James* as much upon Privy Seals which had not been yet repaid, (although it was but lent by ſeveral Citizens to make up that ſome of Money (but if his Majeſty would give them a ſecurity by ſome of his own Revenues in Land to pay the firſt hundred thouſand pounds with intereſt for it, they would lend him another hundred thouſand pounds, and the particular mens names that lent the Moneys to make up the firſt 100000 pounds were expreſſed in a Schedule, which done, as will appear by the ſaid Schedule which I have ſeen 12000 *l. per Annum* of old Rents of Aſſiſe in *Richmondſhire*, or in the County of *York*, were by the King conveyed and granted abſolutely unto ſome Citizens in truſt for the City of *London* for the payment of the ſaid two hundred thouſand pounds with the Intereſt as aforeſaid for the ſaid one hundred thouſand pounds lent unto King *James*, the Wood and Timber only growing thereupon amounting unto as much as the aforeſaid Sums of Money lent with the *Intereſt*, which over-profitable bargain made by the City of *London* for themſelves they with a parcel of conſcience (not of God) did treat with the particular Lenders of the Money to King *James*, and for ten *l.* or a very little in every hundred com-

ed and took up their Privy Seals, but were unwilling to trouble the King with the thought s thereof to the damage of him and disherision of the Crown of *England*, and being taken notice of and complained of, a Commission was granted unto the Lord *Cottington*, Sir *Henry Vane*, and Sir *Charles Harbord* the Kings Surveyor to enquire thereof and certify the King thereof, wherein they were so kind hearted, and the matters so managed, as nothing more was heard thereof, but the City of *London* continueth in possession of the said Manors and Lands, or have spent the same in assisting the late horrid Rebellion against him and together with it the City Orphans Mony, for which it hath been reported they are willing to pay them by composition after the rate of *6d per*. ponnd, caused a Bill to be exhibited by his Attorney General in his Court of Starr Chamber against *John* Earl of *Clare*, and Mr. *Selden* for having only in their Custody two Books or Manuscripts directed unto him by Sir *Robert Dudley* an Englishman living in *Florence*, and stiling himself a Titular *Duke* of that Countrey, endeavouring to instruct him in the method of raising Money by a Tax upon all the Paper and Parchment to be used in *England*, caused Sir *Giles Allington* to be fined in the High Commission Court for Incest and the Lord *Audley* Earl of *Castlehaven* to be arraigned in the Court of Kings Bench for *Sodomy*, whereupon after Tryal by his Peers he was Condemned and Beheaded, suffered a great *Arcanum Imperii* in his Prærogative in taxing or requiring an Aid of Ship Money, or for setting out a Navy of Ships when the Kingdom was in danger, to be disputed in the Exchecquer Chamber by Lawyers and Judges (which King *Henry* the fourth of *France* by a constant Rule in State Policy would never yeild to have done, imitated by Queen *Elizabeth* who in some of her Charters or Letters Patents as unto *Martin Forbisher* a great Sea-Captain declared *de qua disputari nolumus*) upon the case or question of 10 *s*. charged upon Mr. *Hamdens* Estate in *Buckinghamshire* of 4000 *l. p. Annum* wherein all that could be raked out of or by the Records of this Kingdom was put together by Mr. *Oliver* St. *John*, and Mr. *Robert Holborn*, the former being after made Cheif Justice of the Court of Common Pleas by *Hambden* and the Rebel party, and the later taking Arms for the King faithfully

faithfully adhered unto him, whereupon that cauſe coming to be heard, & all that could be argued for the not paying or paying of it, of twelve Judges that carefully conſidered the Arguments, and gave their opinions, there were ten concurred in giving Judgment for the King, and only two, *viz.* Juſtice *Hatton*, and Juſtice *Crooke*, who having before under their hands concurred with all the other, and ſuffered their ſubſcriptions to be publickly inrolled in their ſeveral Courts at *Weſtminſter*, could find the way to be over-inſtrumental in ſetting our *Troy* Town all in Flames whilſt that pious Prince being overburdened with his own more than common neceſſities did not omit any part of the Office of a *Parens Patriæ*, but taking more care for his People than for himſelf (too many of whom proved baſely and wickedly ingrateful) called to accompt *Lionel Cranfield* whom he had made Earl of *Middleſex*, and Lord Treaſurer of *England*, fined him in vaſt ſums of money, ordered him during his life never more to ſit in the Houſe of Peers in Parliament, received a conſiderable part of his Fine, and acquitted him of the reſidue.

And being deſirous as his Father was to unite the Kingdom of *Scotland* in their Reformed Religion, as the more happy Church of *England* was both as unto Epiſcopacy and its Liturgy, that attempt ſo failed his expectation, as a mutiny hapned in the Cathedral Church of *Edenburgh*, and an old Wife ſitting upon a Stool or Crock, crying out that ſhe ſmelt a Pape at her Arſe, threw it at the Miniſters Head, whereupon a great mutiny began, and after that an Inſurrection, which to pacify the King, raiſed a gallant Army of Gentry and Nobility, with all manner of warlike proviſion, and marched unto the Borders, but found them ſo ill provided for defence as they appeared deſpicable, yet the almoſt numberleſs Treacheries fatally encompaſſing that pious King perſuading him not to beat or vanquiſh them when he might ſo eaſily have done it, he returned home disbanding his Army, and a cloſe Favourite of *Scotland*, was after ſent to pacify them, but left them far more unruly than before, ſhortly after which, *Philip Nye* a Factious Miniſter that ſhould have been of the Church of *England*, but was not, with ſome other as wicked Perſons were from *England* delegated to *Scotland*,

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to make a Co enant of Brotherly Rebellion againſt the King, and accordingly the *Scots* being well aſſured, that their Confederates in *England* would not hurt them, marched into *England* with a ragged Army with Petitions to the King, and Declarations of Brotherly Love unto too many of their Confederates, ſeiſed by the cowardiſe, or careleſneſs of the Inhabitants the Town of *Newcaſtle* upon *Tine*, notwithſtanding a ſmall Army ill ordered, was ſent to defend it better than they did, ſo as the *Scotch* Petitioning Army quartering there, and in the Northern parts, the King haſtening thitherwards with Forces, was perſuaded to ſummon at *Rippon* a great Council of many of his Nobility, whither too many of them that came being more affected to the *Scotch* Army, that came like the *Gibeonites* with old Shoes and mouldy Bread were allowed to be free-quartered, and a Parliament ſuddenly to be ſummoned at *London*, whereby to raiſe money for the diſcharge of their Quarters & Army charges, in the mean time the *Scotch* & their Commiſſioners, with their Apoſtle *Alexander Henderſon* have licenſe to viſit *London*, where they are lamented, feaſted and viſited, and almoſt adored as much as St. *Paul* was amongſt the *Macedonians* or the Brethren, who cryed up their holy Covenant and Religion to be the beſt, the Church of *England* with her Ceremonies, Common Prayers and Potage, not to be co n ared unto it, the Parliament would help all, and the *Scots* Commiſſioners were ſo popular and in requeſt, as they ſeemed for that time to govern both the City of *London* and Parliament, and by their peace, pride and plenty had generated Sedition and Faction, and that combuſtible matter in *England* burſt into a Fire which could not be quenched, the Kings Privy Council could not pleaſe the five Members, nor *Kimboltons* Ambition and Envy be ſatisfied without being made a great Officer of State, but proved after to be a general of ſome aſſociated ounties againſt the King, God might be worſhipped with a thriving Conſcience, and the people taken care for by plundering Sequeſtration, Decimation, Killing, Slaying, or Impoveriſhing the Common Wealth or Weal Publick. *Pym* who had been Receiver of the Kings Money, and had not accounted for it in Twenty years, was once endeavoured to be pleaſed by being made Chancellor

Chancellor of the Exchequer, *Hollis* one of the Secretaries of State, Sir *Arthur Haſelrig* and *William Strode* were to be put into great places, one to be Governour of the Prince, and the other as a Secretary, and there being no ſpecial Office for the Lord *Kimbolton*, the hopes of their being better Subjects and Councellors than the former begat their after Rebellion, for which three Kingdoms, and the ruin and deſolation thereof, with the life of the Bleſſed Martyr King *Charles* the firſt might have been ſpared, if that Treaſon had been puniſhed by Law, the King having been informed that ſome of the well-willers to the *Scotiſh* Rebellion had before hand conveyed away their Eſtates, the next care to be taken, being to take away the Life of *Thomas* Earl of *Straſford*, who was General of the Army of the King in the North againſt the *Scots*, who coming up to *London* to accuſe *Pym*, and the reſt of the five Members ſo called, found as he was knocking at the door of the Houſe of Peers, Mr. *Pym* gotten in accuſing him of High Treaſon, upon which he being Arraigned was Acquitted, when he was guilty of no Treaſon but they of abundance, but that not giving ſatisfaction to their wicked deſigns, they invented a way to have him again Arraigned upon a Bill in Parliament at the Suit of the Commons of *England*, (which was the firſt Bill in Parliament of that kind in writing that ever was before, to Intereſt, and proclaim the Houſe of Commons to be Co-ordinate and a third *Eſtate*, including the King to be in, or *ex ſe* one of them,) many of the Preachers were found fault with, for *Arminianiſm* and other Doctrines, by thoſe that underſtood them as little as they did the Word of God, that they preacht up the Kings Power and Prerogative, and *Doctor Manwarring* voted by the Houſe of Commons in Parliament to be puniſhed and ſequeſtred (whom the King afterwards made a Biſhop,) Mr. *William Pryn*, Mr. *Henry Burton*, and Dr. *Baſtwick* juſtly ſentenced in the Court of Star Chamber, the firſt having his Ears nailed unto the Pillory, and all of them ſeverally impriſoned in remote places were inſolently voted out of Priſon (*an attempt never before adventured upon by an Houſe of Commons in Parliament, and no ſuch things as previous votings, in order to the fixing or carrying on evil deſigns, were ever before uſed to be*

made in any of our Kings or Princes Raigns) and were by multitudes of factious *Londoners* of the moſt Common ſort intermingled, brought in a ſeditious proceſſion on Horſeback through the Streets with Roſemary in their Hats, or Hands. Mr. *Pryn* ſhortly after made a buſy and fiery Member of Parliament, the two former whereof were fanatically reported to have had miracles or viſions ſeen upon the occaſion of that they called their ſufferings; Bills were put upon the Corners of the Streets in *London*, to invite People to give a meeting upon a certain day at Grocers Hall in *London*, to ſome Members of the Houſe of Commons in Parliament, to prepare Petitions unto themſelves, ſome Troops of Factious Miniſters, made themſelves the Conductors out of ſeveral Counties, of many a ſimple Innovator, with Papers in their Hats, ſignifying no more than ſomething they knew not what againſt Popery, the Porters of *London* muſt put on their Sunday Cloaths, and carry to the Houſe of Commons printed Petitions againſt the Kings enjoying the Militia, where they were only informed that it was againſt Watermen of *London*'s carrying of Trunks, all the Boys in a Free School at *Stamford* in *Lincolnſhire*, enticed by the naughty School-Maſter, to ſubſcribe their names to a Petition againſt *Biſhops*, with other numberleſs Cheats, and treiks to make fears and jealouſies, and breed a Rebellion which might proceed as much as it could, to break in peices (never as they hoped to be repaired again, our Ancient and flouriſhing Monarchy, the King maketh a progreſs into his Kingdom of *Scotland*, where they beg and importune him for the ſmall *Demeſne* Crown Lands, which he had left, and when he would have reſerved enough to have defrayed the charge of his houſe keeping whilſt he remained there, they would not truſt him with the Money, for fear he ſhould provide Arms with it (when in the mean time a Rebellion was begun in *Ireland* with a *Maſſacre*) from whence when he returned to *London*, he was received by all the Citizens with the *Hoſanna* of a Great ſeeming Joy, but ſuddenly after ill managed by ſome Lords and Commons in Parliament, their then too great Idol in a moſt Hypocritical way of a Remonſtrance bearing Date the 14th day of *December* 1641. at *Hampton Court, wherein with all zeal and faithfulneſs*

unto

unto His Majeſty, acknowledging his Royal favour and Protection, to be a great bleſſing and ſecurity unto them, for the enjoying of all theſe publick and private Priviledges and Liberties, and whenſoever any of them ſhall be invaded or broken.

Petition of the Lords and Commons to his Majeſty at *Hampton* Court 14th of *December* 1641.

And becauſe the Rights and Priviledges of Parliament are the Birthright and Inheritance not only of themſelves but the Kingdom, but every one of his Subjects is intereſſed (that is as to his protection only, whilſt they are his Subjects do honour and obey him, are ſo ſimpliciter, *but not* ſecundum quid) *the maintenance and preſervation whereof doth very highly conduce unto the publick peace and proſperity of His Majeſty, and all His People, they conceive themſelves more eſpecially obliged with all humbleneſs, and care and conſtancy of Reſolution, to endeavour to maintain and defend the ſame (as in an eaſie to be conceived manner of threatning.) Amongſt other the Priviledges of Parliament they do declare that it is their undoubted Right, that His Majeſty ought not to take notice of any matter in agitation and debate in either Houſes of Parliament, but by their Information* (which would not only contradict, but overturn the Reaſon, Conſtitution, Records and Annals of all our Nation) *And that he ought not to propound any condition, proviſion or limitation in any Bill or Act in debate or preparation in either of both Houſes of Parliament, or to manifeſt or declare his conſent or diſlike of the ſame before it be preſented to His Majeſty in the courſe of Parliament* (ſo as they would have their King to be as a Mute until they ſhall have finiſhed all they would, for otherwiſe one Interval might thwart another, how ſhall ſuch a King be Maſter of a Judgment, or have any? *or was God to be prayed unto to give his Judgment to the King or unto the People?* or by what Rule of Right Reaſon ſhould the King, being of full age and ſanity of mind, not be permitted the right uſe of the Faculties of his Soul?)

And that the King ought not to conceive diſpleaſure againſt any man for ſuch Opinions and Propoſitions as ſhall be delivered in ſuch debate, it belonging to the ſeveral Houſes of Parliament reſpectively (which had their Original contradiſtinct Powers and Cuſtoms) *to judge and determine ſuch Errours and Offences in Words or Actions that ſhall be committed by any of their Members in the handling or debating any matter depending* (which was contradicted by Queen *Elizabeth*

Elizabeth when ſhe charged the Members of the Houſe of Commons in Parliament not to intermeddle in matters of Church or State, or receive any Bills of that nature, and ſeverely puniſhed ſome Members that attempted to do otherwiſe.)

Yet they complained in their ſo ſtrange a claim of thoſe their never to be found Priviledges, *that they were to their great grievance broken by the Kings endeavouring to put a* Salvo Jury *to their Bill or Act of Parliament, forbiding the preſſing of Souldiers* (at that inſtant when there was ſo great an occaſion for the Wars in *Ireland*) and went much higher than the great Earls, the Conſtable and Earl Marſhal of *England*, and *Gilbert de Clare* Earl of *Glouceſter* did when in a Parliament of King *Edward* the firſt, they denyed him his accuſtomed *Salvo Jure*, where he or his Privy Councel or Councel at Law adjudged it neceſſary.

And therefore humbly intreated his Majeſty by his Royal Power and Authority (whereof it may ſeem they would leave him as little as poſſibly they could) *to protect them in thoſe and all other their Priviledges of Parliament: And for the time to come would not interrupt the ſame, and that they may not ſuffer in his Majeſties favour* (when he ſhould be ſo greatly obliged unto his Subjects as to reſtore again to his knowledge and Judgment, after the end of ſuch a Parliament, never before known in *England*, or any other Nation of the Chriſtian World, ſuch a kind of Priviledge, neither being poſſible to be found or heard of on Earth or amongſt the *Antipodes*, or in the diſcovery which *Gonzagua's* Geeſe made of the Countrey of the Moon, where the Servants are reported to govern the Maſters, and the Children their Parents) *And that his Majeſty would be pleaſed to nominate thoſe that have been his Adviſers that they may receive ſuch condign Judgment as may appertain unto Juſtice. And this his moſt faithful Councel, ſhall adviſe and deſire, as that which will not only be a comfort to themſelves, but of great advantage to his Majeſty, by procuring ſuch a confidence between him and his People, as may be a Foundation of honour, ſafety and happineſs to his Perſon and Throne.*

And probably had never adventured to fly ſo high a pitch, if ſome of the Lords and Commons in Parliament had not upon the Scotch petitioning Rebellion, and entring

entring into *England* borrowed 150000 *l.* upon their ſeveral perſonal ſecurities to pay their quarters whilſt they were here, which Parliament Manacles of their King would have amounted to more than the aforeſaid Sir *Edward Cokes* figment, of a *modus tenendi Parliamentum* uſed as he beleived in *Edward* the Confeſſors time.

And in the abſence of Parliaments might have the Name and Title of King, until they ſhould make an occaſion to Print a Remonſtrance againſt him, or arraign him.

And as a Prologue to their intended Remonſtrance, the next day they ſeeming not a little to congratulate his ſafe coming from *Scotland*, *did beſeech him to give more Life and Power to the faithful Councel of his Parliament, and being neceſſitated to make a Declaration of their grievances, and the corruption of ſome of his Biſhops, eſpecially ſuch as are in a near truſt and employment about him, and were divers of them of his Privy Councel, and about the Prince his Son, and have thereby a dangerous operation in his Councel and Government in this time of a preparation for War betwixt his Kingdoms of* Scotland *and* Ireland, (which was then but procured and fomented by confederacy) *Inſurrection of the Papiſts and Bloody Affairs in* Ireland, *for prevention whereof they have ingaged themſelves and their Eſtates in the ſum of* 150000 *l. Sterling, or thereabouts for the neceſſary ſupply of his Majeſty in his dangerous Affairs, therefore they prayed.* Petition to the Houſe of Commons. *Husbands* Collections of Proceedings in Parliament

1. *That he would concur with the deſires of his Parliament, for the depriving the Biſhops of their Votes in Parliament,* (which was the one half of that grand Fundamental of the Laws and Government of *England* in the Houſe of Peers in Parliament,) *and abridge their immoderate power uſurped over the Clergy, to the hazard and prejudice of the Laws, Liberty, and Religion of his Subjects, and the taking away oppreſſion in Church Government and Diſcipline, puniſhing ſuch Loyal Subjects as join together in Fundamental Truths againſt the Papiſts, and by the oppreſſions of unneceſſary Ceremonies.*

2. *Remove from his Councel all the promoters thereof, and to imploy ſuch perſons in his great Affairs and truſt as his Parliament may confide in,* (which was to govern him both in times of Parliament and without, when he

hath at his Coronation taken his Oath to govern according to his Laws, not any of the Peoples.

3 *That he would not alienate any of the forfeited* Irish *Lands*, (which begot good bargains for some of the ungodly contrivers, when they after purchased their Rebel perjured Soldiers arrears for xvj. *d. per* pound.

Which being fulfilled, they his most great and faithful Councel, (upon these conditions) *shall by the blessing of God*, (as they would have it) *cheerfully undergo the expence of the War, and apply themselves to such other means and Councels as shall support him, and make him glorious both at home and abroad.*

In order whereunto the contrary way they did the 15th day of *December* 1641. notwithstanding his earnest request unto them, print and publish it, wherein (besides some of their own or their instigators, unquiet Spirits, ambitious or evil designs, to misuse and Govern their Soveraign, plainly appearing may be seen, and the many greivances of their own making, in the oppressing of each other, and undertaking to determine of matters and Mysteries of State, and the *Arcana*'s and necessities of State, of which they could not possibly without necessary *Præcognita*'s, be competent Judges) they made a great addition to that prologue, to their subsequent Rebellion, and abominable consequence of the murder of that excellently pious Prince, insomuch as it may be over and over again, a wonder to be ranked amongst the greatest, in what untrodden or dark inaccessible Caverns of the Earth, these unknown and never accustomed Priviledges of the Parliaments of *England*, could lurk or lye hidden, when in all the *Conservatorships* of liberties, devised at *Running Mede* forced upon King *John*, the *Provisions* made at *Oxford*, in the Raign of King *Henry* the 3d. neither any thing in the Raigns of King *Edward* the 2d & 3. & 4. and *Richard* 2d. *Henry* 4, 5, 6. *Richard* the 3d the Usurper, *Henry* the 7th. King *Henry* 8. *E.* 6. Queen *Mary*, Queen *Elizabeth* and and King *James* had never such shackles desired or claimed to be put upon any of them, unto which those Parliament Remonstrants, were the more incouraged by that oppressed Princes having his three Kingdoms, set on fire about his Ears at once; that of *Ireland* incited by his condescensions to that of *Scotland*; and that of *England*,

England, as busy as the worst but gaining more by it, when the King had to pacify all, given them license by an Act of Parliament, to continue in Parliament, without adjourning, proroguing, or dissolving, until those great Sums of Money should be satisfied, and *Ireland* quieted, which they never intended, but hindred and perplexed all they could, although he offered to go thither in Person himself which they would not consent unto for fear, least he should thereby get Arms and Power into his own hands, to frustrate their wicked design, which that Republican wicked party, durst never offer to *Oliver Cromwell*, the Protector of their supposed Liberties, with any the least of those monstrous conditions, by them called Priviledges, but could tamely suffer him to make his own Instrument of Government, alter the Course of Parliament, with more or less Members of the House of Commons in Parliament, pull out and imprison diverse Members of that House, and shut up the Doors, constitute a new House, of his mechanick and ordinary Commanders, instead of a House of Lords, after the Republican partty had made such an Act of Parliament as they could, that none should have benefit of the Laws, who did not take an oath of engagement not to have any more a King or House of Lords.

And to be disappointed as little as they could possibly in those their intentions, made all the hast they could to fire their Beacons of personal Plots and dangers against themselves, the great Patriots of the Kingdom, and Weal publick, as they had done before against Popery, and therefore incredible Plots and Conspiracies were discovered by one of their Members, who had an especial faculty therein, and likewise by others, as a Plaister taken from the sore of a man infected therewith, and brought by an *Incognito* in a Letter to Mr. *John Pym*, the Lord *Digby* seen at *Kingston* upon *Thames*, with four Horses in a Coach in a warlike manner, Horses kept and trained under ground, and a dangerous design to blow up the River *Thames* with Gunpowder, whereby to drown the Parliament Houses with many the like ridiculous fopperies to affright the easy to be deluded silly Vulgar, and engage them in a Rebellion, and were in the mean time to be secured themselves by a guard,

a guard, for which they Petitioned the King, who ordered the Juſtices of Peace to command the Conſtables of that diviſion to furniſh one, but that would not accommodate their purpoſes, nothing would help forward their more than ordinary deſigns, than a guard by the Trained Bands of the City of *London* by turns, which being granted by the King, ſuddenly after the Citizens Wives were ſo afraid of the danger of the Tower of *London*, as they could not lye dry in their Beds, and the Lieutenant of the Tower muſt be diſplaced, and a more confiding one put in to give them content that never intended to be ſatisfied.

Which being done the Pulpits of the Prebyterian *Scotized* Clergy flaming, and the Printing Preſſes, Stationers and Cryers in the Streets, as buſy in the publiſhing the Harangues of the Houſe of Commons Members in proclaiming the imaginary grievances, and he was a ſmall man at Arms that had made and publiſhed no more than one or two ſuch Speeches, mean while Proteſtations were ordered to be made in every Pariſh of *England* and *Wales*, to defend the King and the Proteſtant Religion, the King going into *London* in his Coach hath a Paper thrown into it with a writing thereupon, *To your Tents O Iſrael*, the many Rude People of the adjoyning Hamlets came in droves to the Parliament, crying, No Biſhops, and for Juſtice, and as they paſs by *Whitehall* Gate and knock at it deſire to ſpeak with the King, who ſends unto the Students of the Inns of Court, with ſome Captains and Commanders to attend him as a ſupplemary Guard, who came and had a Diet and Table provided for them, the Biſhops do leave the Houſe of Peers with a proteſtation (patterned with one in 11 *R.* 2.) that they could not ſit there in ſafety, for which they were all made Priſoners in the Tower of *London*, but were all afterwards releaſed, except *Matthew Wren Biſhop of Ely*, who remained there ſequeſtred from his Biſhoprick, for ſomething more than 13 years, without knowing for what cauſe or crime until his late Majeſties happy Reſtauration.

Mr. *Henry Martin* a Member of the Houſe of Commons in Parliament, more fearing the Anger of his Miſtreſs than his God or King, begins in Parliament to declaim againſt the King, ſaying, that he was not fit to

Raign

Raign or Govern, and moved that all the Regal Ornaments cuſtomarily lodged in the Abby of *Weſtminſter* under the cuſtody of the *Dean and Chapter* thereof might be ſeiſed; one Mr. *Parker* made haſt to make himſelf an Obſervator of the Rebellious way with diſlocated Maximes, abuſed and wreſted out of their proper meaning, and Interpretations, *viz. Quod efficit tale eſt magis tale*, the King is *Major ſingulis*, but *minor univerſis*, *& ſalus populi eſt ſuprema Lex*, which although Learnedly anſwered by the more Loyal Orthodox Party to an ample Conviction that ſhould be, could not ſatisfie or ſtop the deſigned Confederacy and Rebellion, but the ten Judges of the twelve that gave their Opinions in the caſe of Mr. *Hambden* againſt him concerning the Shipmoney for the King, were by the Parliaments Order put out of their Offices and Places; *Juſtice Berkly* one of the Juſtices of the Court of Kings Bench taken Priſoner as he was ſitting by the Uſher of the Black Rod attending the Houſe of Peers, after which Mr. *Denzal Hollis* came to the Houſe of Lords, and with greater boldneſs than aſſurance, claimed the *Militia* and Power of the Sword to appertain of Right to the People; and Mr. *Pryn* writes and Publiſhes his Book of the Supremacy of Parliaments, ſeconded by Mr. *John Whites* Book entituled a Politick Chatechiſm, undertaking to prove by our Laws the Reſiſtibility and Forcing the Power of our Kings to be Veſted in the People, and the Judges were commanded by the Parliament without the King to declare to the People in their Circuits, that the *Militia* is, and ought to be in the Parliament as the Repreſentative of the People (which was never before done, read, ſeen, or heard of in *England*) which all the Judges obeyed, but my honoured Friend the worthy Sir *Thomas Mallet* one of the Juſtices of the Court of Kings Bench, who not forgetting his very Ancient and Noble diſcent, plainly and reſolutely at every place in his next Circuit, declared it in all his Charges to be in Law *de Jure Coronæ ſuæ* in the King, and for his ſo exemplary Loyalty, was in the laſt place of that Circuit by Sir *Richard Onſlow Knight* a Member of the Commons Houſe in Parliament with a Troop of Horſe, as he was ſitting upon the Bench at *Kingſton upon Thames* Arreſted and carried Priſoner to the Tower of *London*, and the Wind and

Pryns Soveraignty of Parliaments.

John Whites Politick Catechiſm.

Tyde of fear and self-preservation did then so impetuously drive Sir *Edward Littleton*, the Lord Keeper of the Great Seal of *England*, (who some years before, when he was a young Man, made it a part of his Praise or Olympick Game, to prove by Law that the King had no Law to destrain men *esse Milites*,) and Sir *John Banckes* Knight Lord Chief Justice of the Court of Common Pleas, that they joyned with the then Illegal concurrent Votes of too many of the House of Peers, that the Militia which was the Right and Power of the Sword, and *Jus divinum gladii*, and the *totum aggregatum*, and support of the Government was in the People when our Learned *Bracton* hath truly informed us, that *in Rege qui recte regit necessaria sunt duo, Arma videlicet, & Leges quibus utrumque bellorum, & pacis recto possit gubernari, utrumque enim istorum alterius indiget auxilio quo tam Res militaris possit esse in tuto quam ipsæ Leges usu Armorum, & præsidio possent esse servatæ, si autem Arma defecerint contra hostes Rebelles & Inimicos, sic erit Regnum indefensum si autem Leges sic exterminabitur justitia, nec erit qui justum faciet.* Following therein that opinion of *Justinian* the Emperour in his Institutes.

Henr. de Bracton in prœmio.

And did declare (not like men that had taken the Oaths of Allegiance and Supremacy before they were admitted into that House) *that if any Person whatsoever* (wherein the King or his Command ought to have been excepted) *shall offer to arrest or detain the Person of any Member of that House without first acquainting their House, or receiving further Order from that House, that it is Lawful for any such Member, or any Person to assist him, and to stand upon his, and their guard, and defence, and to make resistance according to the protestation taken to defend the Priviledges of Parliament*, (which was neither to commit or maintain Treason, or make that without the Kings Authority to be Treason that never was, & their intollerable haughty Priviledges so incompatible and inconsistent with Monarchy demanded by the Petition of the Lords and Commons in Parliament, the 14th day of *December* 1641. can never be able to withstand the dint and force of the Law, and Right Reason if a *Quo Warranto* should be brought against them.)

Whereupon the King the 4th day of January 1641. *coming into the House of Commons in Person*, (no such Company

pany attending with Piſtols at the Door as was untruly reported) *and being ſate in the Speakers Chair, ſaid, he was ſorry for the occaſion of coming unto them.*

Yeſterday he had ſent a Serjeant at Arms to apprehend ſome that were accuſed of High Treaſon, whereunto he expected Obedience and not a Meſſage, and that he muſt declare unto them, that in caſe of High Treaſon no Perſon hath a Priviledge.

And therefore he was come to know if any of theſe Perſons accuſed were here, for ſo long as thoſe Perſons accuſed for no ſlight crime, but for Treaſon, were there he could not expect that that Houſe could be in the Right way, which he heartily wiſhes, and therefore he came to tell the Houſe that he muſt have them whereſoever he can find them, but ſince he ſees the Birds are flown, he doth expect from them that they ſhould ſend them unto him as ſoon as they return thither, But aſſures them in the word of a King he never did intend any force, but ſhall proceed againſt them in a legal and fair way, for he never meant any other, (which they might eaſily have done, when they had his own Serjeant at Arms attending that Honſe for no other than ſuch like purpoſes.)

The next day being the 5th day of January 1641. (notwithſtanding that Treaſon, Felony, and Breach of the Peace were always by the Laws of *England*, and Cuſtoms of their Parliaments exempt, and never accompted to be within the Circuit of any Parliament Priviledge, for otherwiſe Parliaments, and great Aſſemblies well Affected, or ill Affected would be dangerous unto Kings) *they declare the Kings coming thither in Perſon to be an high breach of the Rights and Priviledge of Parliament, and inconſiſtent with the Liberty and Freedom thereof, and therefore adjourned their ſitting to the* Guildhall *in* London, (which they ſhould not have done without the Kings Order) *that a ſpecial Committee of* 24 *ſhould ſit there alſo concerning the Iriſh Affairs,* of which number was Sir *Ralph Hopton,* that after got out of their wicked errors, and fought and won ſundry glorious Battels for the King againſt thoſe Parliament Rebels, and ſome few more of that their Committee deſerted their Party.

And the Writ ſent by King *Edward* the firſt to the Juſtices of his Bench by Mr. *Pulton* ſtiled a Statute made in the 7th year of his Raign, might have ſufficiently informed them, and all that were of the profeſſion of the 7 E. 1.

Law

Law in the Houſe of Commons in Parliament, that in a Parliament at *Weſtminſter*, the *Prelates*, *Earls*, *Barons*, and *Commonalty* of the Realm *have ſaid that to the King it belongeth, and his part is through his Royal Seignory ſtreightly to defend force of Arms, and all other force againſt his Peace at all times which ſhall pleaſe him, and to puniſh them which ſhall do contrary according to the Laws and Uſages of the Realm, and therefore they are bound to aid him as their Soveraign Lord at all times when need ſhall be, and therefore commanded the Juſtices to cauſe thoſe things to be read before them in the ſaid Bench, and there Inrolled.*

The before confederated national Covenant betwixt *England* and *Scotland*, being by Ordinance of Parliament (for ſo they were pleaſed to call their noLaws)confirmed under a penalty that no man ſhould enjoy any Office or Place in the Commonwealth of *Engl.*and *Ireland* that did not Atteſt and Swear it, which the King prohibiting by his Proclamation ſent unto *London*, the bringer whereof was hanged, the King certainly informed of the traiterous practices, and other miſdeameanors of the Lord *Kimbolton*, and his aforeſaid Aſſociates, did as privately as poſſible with the Prince *Elector Palatine* his Nephew, and no extraordinary attendance go in perſon to the Houſe of Commons to ſeize them, becauſe his Serjeants at Arms durſt not adventure to do it, who having notice of it by the *Counteſs of Carliſles* over-hearing his whiſpering to the Queen, and ſuddenly ſending them notice thereof, were ſure to be abſent, wherein he being diſappointed, did afterwards by his Attorney General exhibit Articles of High Treaſon, and other Miſdemeanors againſt them.

1. *That they had traiterouſly endeavoured to ſubvert the Fundamental Laws and Government of the Kingdom, and deprive the King of his Legal Power, and place on Subjects an Arbitrary and Tyrannical Power* (which ſhortly after proved wofully true, and for many years after ſo continued.)

2. *That they have endeavoured by many foul aſperſions upon his Majeſty, and his Government to alienate the affection of his People, and to make his Majeſty odious unto them.*

3. *That they have endeavoured to draw his Majeſties late*

late Army to diſobedience to his Command, and to ſide with them in their trayterous deſigns.

4. *That they have trayterouſly invited, and incouraged a forreign Prince to invade his Majeſties Kingdom of* England.

5. *That they have trayterouſly endeavoured to ſubvert the very Rights and being of Parliaments.*

6. *That for the compleating of their traiterous deſigns, they have endeavoured as far as in them lay by Force and Arms, to compel the Parliament to joyn with them in their traiterous deſigns, and to that end have actually raiſed, and countenanced Tumults againſt the King and Parliament.*

7. *That they have traiterouſly conſpired to leavy, and actually have leavied War againſt the King.*

Whereupon the Houſe of Commonsin Parliament the 3d. of *January* 1641. *did Order, that if any perſon ſhould ſeal up the Trunks or Doors of any Members of their Houſe,* (which in the caſe of the King for Treaſon, was not certainly within the Virge of their Commiſſion, or purpoſe of their Election either by the King or their Countries, or their Indentures or Wages allowed, nor the Priviledge of Freedom from Arreſt of their perſons or goods, whilſt they are there in his important ſervice) *they ſhould require the Aid of the Conſtable, who by his Oath of Allegiance was not to do it.*

And in another Declaration of the 7th day of *January* 1641. Printed and Publiſhed, (which in this Kingdom, or any other part of Chriſtendom was never accuſtomed or allowed to be done,) *were pleaſed untruly to affirm that the King having ſent a Serjeant at Arms to their Speaker to demand the perſons aforeſaid accuſed, and being denyed, came the next day in his Royal Perſon to demand them, with Halberts, Swords and Piſtols, attending without at the Door,* (who if they had been as dreadful as they would make it, would have been but neceſſary, leſt he might have been Stabbed and Aſſaſſinated, as *Julius Cæſar* was unguarded in the *Roman* Senate.)

Did declare that the Arreſting of the ſaid Accuſed Members or any other Members of Parliament by pretence or colour of any Warrant iſſuing from the King only, (as if they were aſſured of a Co-ordination with him) *is guilty of the Breach of the Liberty of the Subject, and of the Priviledge of Parliament, and a publick Enemy of the Common*

wealth, and that the Arreſtnig of any of the ſaid Members, or any other Member, without a Legal proceeding againſt them, is declared, a publick Enemy of the Commonwealth, notwithſtanding, they did declare that they would not protect any Member that ſhould be proſecuted by the King according to the Law of the Kingdom, and the Rights, and Priviledges of Parliament, for Treaſon, or any other Miſdemeanor (ſo as they which never were yet a Judicature, or had ever any power to examine a Witneſs, might be the Judges what was the Law or Treaſon) *and will be as willing that Juſtice be done againſt the Commons, as to defend the juſt Rights and Liberties of the Subjects, and Priviledges of the Parliament of* England.

That the Priviledges of the Parliament, and Liberties of the Subjects ſo violated and broken, cannot be ſufficiently vindicated, (a *punctilio* of Honour never before inſiſted upon by any of the Parliaments, or Subjects of *England* to their Soveraign Kings or Princes,) *without the delivering up unto them the names of thoſe that adviſed or councelled him thereunto, and the coming in his own Perſon, the publiſhing of the ſaid Articles, and Printed Papers inform againſt the ſaid Members, to the end that ſuch perſons may receive condign puniſhment,* (intending very likely to have it only left to their own lately ſelf-erected *Soveraignſhips.*)

The County of *Buckingham* Petitioned for Mr. *Hambden*, and did adventure to ſay, that in their Opinion his Majeſties Accuſation of him doth oppugne the Rights and Priviledges of Parliament, which was according to the Proteſtation to defend the King, and the Church, and Commonwealth.

The Houſe of Commons the 15th of *January* 1641. examined Sir *Edward Herbert* the Kings Attorney General upon ſeveral Articles concerning the Accuſation for Treaſon againſt the Lord *Kimbolton*, and the other Members, and whether he would undertake or make good the ſaid Articles, or any of them, if he ſhall be called before the Lords, unto which he anſwered by my former expreſſion, you may diſcern what anſwer I cannot make or take, to make one Title of them, otherwiſe than as my Maſter hath informed me, and enabled me, for of my ſelf I cannot, nor will not do more than one that never heard of them.

Where-

Whereupon it was reſolved by the Houſe of Commons, that the ſaid Attorney General had broken the Priviledge of Parliament in præferring the ſaid Articles, and that a Charge be ſent up to the Houſe of Lords in the name of the Houſe of Commons againſt him, to have ſatisfaction for the great ſcandal and injury which he hath done to the ſaid Members, unleſs by *Thurſday* next he bring in and make good, if he can, the ſaid Articles againſt the ſaid Members, or any of them.

The 4th of *March* 1641. the King from *Royſton* in his Journey towards *York*, being deterred from his Palace at *Whitehall*, wrote to the Lord Chancellor, commanding him to read unto the Lords the Copy of his Charge againſt the aforeſaid Members, and nominate a Committee to examine the Evidence thereof, and alſo ſignified, that what his Attorney General had done therein, was by his command, and according to his Duty.

But having declared that he found cauſe wholly to deſiſt from proſecuting the ſaid Members, he had commanded him to proceed no further therein, nor to produce or diſcover any proof concerning the ſame.

After many Meſſages and Petitions not to ſuffer the Queen to go with the Princeſs of *Orange* her Daughter into *Holland*, nor to take the Prince into *Yorkſhire* with him, many Petitions and pretences to have the *Militia* put into their hands, abſolutely to ſecure them from their (own coyned) fears and jealouſies, and a denial of that but for a limited time, they having alſo not failed in deſiring ſtrong Towns, Caſtles, Forts and Garriſons to be put into their Cuſtody, and voted Sir *John Hotham* one of their Members no Traytor, after the King had Proclaimed him a Traytor for his denying him entrance, when he Perſonally demanded it, into his ſtrong Fortified Town of *Kingſton* upon *Hull*; and a 2 or 3 Remonſtrance over-boldly Printed and Publiſhed to Idolize themſelves, and inflame the ſilly people, and made their Blockades, Circumvallations, Trenches and Mines about our Monarchy, and too many of the deluded people ready to betray and deliver it up, or gape at the ſpoil, which might inlarge and better their formerly wicked conditions, and appointed Deputy Lieuetnants, and Commanders in every County and City, took into their hands the Kings Navy with the profit of his Cuſtoms,

and

and all that they could by fear or fraud get into the hands or clutches of their Wolves, Foxes and Harpies, Birds or Beaſts of prey; mean while the King labouring by many Princely Anſwers to their Meſſages, Letters, and Proclamations to keep them from the Witchcraft of Rebellion, the more they galloped into it, and nominate the Earl of *Eſſex* to be their General, and a great contribution of Plate and Money as before hath been mentioned, to bring the King home to his Parliament, who might have been more ready than they, had he not been encompaſſed without any cauſe, or provocation with as many Treaſons, Plots, Falſehoods and Treacheries as he had Hairs upon his Head and Beard, with no ſmall want of Money and Friends, in the midſt of his three once flouriſhing Kingdoms, flaming, and on fire about his Ears, which could not otherwiſe have brought ſuch an accumulation of evils upon him.

And being ſomewhat ſupplied by many of his Exchecquer Receivers, who brought unto him Remainders of Moneys upon their Accompts, (*John Pym* excepted, that was the Kings and his Fathers Receiver in Arrear about 22 years, and could not be at leiſure, leſt he ſhould thereby hinder the managing of his Treaſon againſt the King, and ſo would have made a truſty Chancellor of the Exchecquer for the King,) marched as well as he could toward his Loyal Subjects of *Wales*, whither to hinder and diſtreſs him the Earl of *Eſſex*, with his Army of Rebels way-laying him at *Edge-hill* in *Warwickſhire*, where Loyalty and Rebellion fighting a bloody Battel, and *Robert* Earl of *Lindſey* the Kings General being hurt, and carried away Priſoner to *Warwick* Caſtle ſhortly after died, his Son the Lord *Willoughby* offering himſelf an Hoſtage, being not according to the Laws of War accepted, and the Rebels Cannons levelled againſt the brow of the Hill, where the King and the Prince ſat, bnt being diſappointed, left the Field, and retired to *Warwick*, and the King keeping it all that night, the next day marched to *Banbury* and took it, from thence fixed himſelf at *Oxford*, to which very many Parliament Men that were Loyal retired, and kept a true Parliament, howſoever the Rebels made ſhift to get by parcels to *London*, where they Publiſh how near they were to gain the Victor, of which they could have given

a greater

a greater certainty of the Lord *Wharton* had not hid himself in a Saw-pit, and *Stephen Marshal* a Factious Minister had not mistaken himself, when in his Parish Pulpit at *Finchingfield* in *Essex*, he had related an impudent Lye in the hearing of one that had been in that Battel, that he had pickt up Bullets in his Velvet Cap to help the Rebels Souldiers, when a Souldier that heard him so preach, could have proved that he at another time had confessed, that he was so affrighted that he had run away four or five Miles from the place where the Battel had been, before he knew where he was, after which they were so unwilling to forsake their Treasonable hopes as they rallyed, and ingaged all the Friends the Devil could help them unto, insomuch as the War grew more and more fierce, as at the Kings Besieging of *Glouceſter*, the effascinated Citizens of *Londons* Trained Bands came to raise the Siege, a sharp Fight was at *Newbury*, where they were beaten, and *Weemes* a Scotish Cannoneer taken Prisoner, whilst he was levelling at the Person of the King, in a Bloody Fight at *Copreby* Bridge where the Rebels had the worst, and yet *Weemes* was pardoned, and left to do more mischief, when all he could say was, in Gude Faith his Heart was to the King.

And the King was from place to place so victorious as he drove the Parliament Rebels by the help of his Nephews, Prince *Rupert* and Prince *Maurice*, and the gallant Conduct of Sir *Ralph Hopton*, and the *Greenviles*, and the courage of the Corniſh men (for which they had the Kings thanks publickly read and Regiſtred in the Churches) the Earl of *Essex*, and his Rebel Parliamentarians were so driven and penn'd up at *Leſtichiel* in *Cornwal*, as their whole Army, Cannon and Amunition, Bag and Baggage were seized, and the Earl of *Essex*, and some other Commanders enforced to shift and save themselves in a Cock-boat, Sir *William Balfour* getting away with some of the Horse, notwithstanding all which, and that that over-tender hearted Prince had experimented more than once their Rebellion was inexorable, and that neither his Protestation upon the Sacrament, nor the word stamped upon his Coyn for Religion, and the Priviledges of Parliament could make them forsake their Rebellious Principles, could not forbear to

bring them if possible out of that sin of Witchcraft, but when he might with a victorious Army have beaten them at *Bramford*, did by some that were hired to betray his Councels, (for by that time they had as much learned the Art of Bribery, as they had the glosses of Rebellion) rouse their obdurate and seared Souls with Messages for Peace, and divers Loyal Ministers and Citizens of *London* had petitioned them to make Peace with the King, who sent the Earls of *Southampton* and *Dorset* unto their then called House of Peers, who were answered and received uncivilly enough as to their own Persons, and the King their Master that sent them, Printed and Published intercepted Letters betwixt the King and the Queen, and relying more upon their confederating Brethren of *Scotland* than upon their God, and the King his Vicegerent, in all hast sent to invite them to come unto their Aid, which they did, and before they went home, had 300000*l.* Sterling paid unto them for their Rebel Assistance, which putting a stop to the Kings Victories, especially in that unfortunate Battel at *Naseby*, and afterwards at *Marston Moore* by a misintelligence at the later betwixt Prince *Rupert*, and the Earl of *Newcastle*, the King condescended to a Treaty by Commissioners at *Uxbridge*, where no other reason could be accepted, but as if the King had been a Subject, and they his Soveraign, they appeared willing to transfer unto their Scotish Brethren a great part, if not all, of the Kingdom of *Ireland*, every attempt and self-defence of the King, and his Loyal Party bringing no better comfort than dispair, he gave license to his good Subjects to retire into the Parliament Quarters, or unjust Dominion, and compound for their supposed forfeitures (which much encreased their Treasure and Power) for fighting against the King, when they fought for him against his Rebels, as if the King and they had been but one Incorporation, and themselves the head, and the King could be a Rebel to himself, and them at the same time, and *Wat Tyler* or *Jack Cade*, or the late *Massinello* had Authority to make themselves Soveraigns, which they had not impudence enough to adventure, for it must needs appear to all Mankind to be a Gipsy jugling trick, or *Proteisme* never before heard of in any part of the World.

The Noble *Earl* of *Scarsdale* refusing to compound, but

but retiring home, did ever after cloath himself in Sack-cloth, and every day to his death make a visit to his Tomb.

The King thus vanquished by Clemency and hopes to out-reason their detestible Rebellion, with all the secresie imaginable, retired out of *Oxford* with a too much over-trusted Groom of his Bed-chamber riding out, as the man with Mr. *Hudson* an Orthodox Loyal Minister, their Journey being designed for *London*, where the King was informed that the City Train Bands were to muster the next day after he should reach thither, unto whose Protection (not of the Scotch Army then quartered at *Newcastle* upon *Tine*) he intended to place the safety of his Person, whilst he should Treat further with his Parliament Rebels, (who being sufficiently infected with their Parliamentary Rebellious never to be warranted Principles, would have given him as little an assistance) whereof the Rebels being informed before hand by their Colonel *Rainsborough* that granted the King his pass, and did too well understand who was the treacherous Groom of the Bed-chamber mans Master, when the Loyal Party were afraid what was become of the King, the Rebels could answer, they would shortly hear of him, who coming near unto *London*, finding himself disappointed by the Training put off, was enforced to coast about betwixt *Branford* and *Highgate*, and from thence resolve to take his way to the Scotish Army, and cast himself into their Protection, after that he had before met with so bad an effect of their contrary Loyalty, whither being come, they, as if they had had no manner of Intelligence of it before, write their Letters to their Brother Parliament Rebels of their great amazement to see the King come unto them, and desire that he may be brought home to his Parliament, (over which they had such an influence as they almost governed them) in honour and safety, who fail not to do it in promises, but would have him delivered to them, and sent to an house of his own at *Holmby* in the County of *Northampton*, where he should not want a guard of their own, whereupon the *Scotish* Commanders having fallen into a deeper than ordinary consideration how they could with Honour, Loyalty, and *gude Conscience* deliver their Native King into the hands of his Enemies, and

going

going to voting, two great Commanders that in *muckle* manner had been obliged to their King for many great favours, and might have ballanced the Vote with a great deal of facility in the Negative, were mightily suspected to have gone privately along with them, that they were certain would make up the Majority for delivering of the King up to his Parliament Adversaries, but took by all means an especial care for themselves to Vote against the delivering of the King into the hands of those that would love their own ends more than any of his Rights or their Duty, and a bargain came so to be made, as the King was put into the mercy of the English Parliament, and 200000 *l.* Sterling, which amounted unto something more than *Judas Iscariots* thirty pieces of Silver, for betraying *Jesus Christ*. And as *Mickel* as the 200000 *l.* were above the Scotch Marks, or 13 *d.* halfpenny english, none or very little of it could ever after find the way to the Pockets of the Scotch *Plads, or blew Caps*, and he had not been long at *Holmby*, but he was in a Morning betimes fetcht out of his Bed by *Cornet Joice* a *Fanatick Tayler*, with some Troops of Horse sent by *Cromwel* and *Fairfax*, into their Army, Quarters, and tossed from place to place until after 25 Treaties, Letters and Messages for Peace, they had from Treachery to Treachery, and Villany to Villany contrived his execrable Murder.

The 19 Propositions sent unto the King the 2d of *Jun* 1642.

The 2d of *June* 1642. the Lords and Commons in Parliament did offer their humble Petition and Advice, having nothing in their thoughts and desires (as they pretended) next unto the Honour, and immediate service of God, more than the faithful performance of their Duty to his Majesty and this Kingdom, as the most necessary and effectual means thereof, to grant and accept the 19 Propositions ensuing, *viz.*

1. That the Lords and others of his Majesties Privy Council, and all such great Officers and Ministers of State either at home or abroad, or beyond the Seas, may be put from your Privy Council, and have no Offices or Employments, excepting such as shall be approved of by both Houses of Parliament, and that the Persons put into their Places and Employment may be approved of by both Houses of Parliament, and that Privy Councellors shall take an Oath for the due execution of their

their Places in ſuch form as ſhall be agreed upon by both Houſes of Parliament.

2. That the great Affairs of the Kingdom may not be concluded or tranſacted by the advice of private men, or by any unknown or unſworn Councellors, (Sir *Robert Cotton* a great Antiquary with a well furniſhed Library, being often conſulted with by King *James* and that Prince in ſpecial matters,) but that ſuch matters as concern the publick, and are proper for the High Court of Parliament, which is his Majeſties great and ſupream Court, may be debated, reſolved and tranſacted only in Parliament, (which was contrary to the Fundamental Laws and Conſtitutions of Parliaments in this, and all other the Kingdoms of the Chriſtian World, whereby the matters and buſineſs of Monarchy, and the Regal Government were limited and reſtrained unto *arduis, & non omnibus arduis ſed quibuſdam*) and not elſewhere, and ſuch as ſhall preſume to do any thing to the contrary, ſhall be reſerved to the cenſure and judgment of Parliament, and ſuch other matters as are proper for his Majeſties Privy Council ſhall be debated, and concluded by ſuch of the Nobility, and others, as ſhall from time to time be choſen for that place by approbation of both Houſes of Parliament, (which would have Incorporated, and Aſſociated the Houſe of Commons in Parliament with the Houſe of Lords, which never was, nor ought to have been otherwiſe than inferiour unto the Houſe of Peers in Parliament, and therefore ſtiled the lower Houſe of Parliament,) and that no publick Act concerning the Affairs of the Kingdom as are proper for his Majeſties Privy Council, may be eſteemed of any validity as proceeding from the Royal Authority, unleſs it be done by the Advice and Conſent of the Major part of his Council Atteſted under their hands; and that his Council may be limitted to a certain number not exceeding 25, nor under 15. And that if any Privy Councellors place happen to be void in the intervals of Parliament, it ſhall not be ſupplied without the aſſent of the Major part of the Council, which choice ſhall be confirmed at the next ſitting of Parliament, or elſe to be void.

3. That the Lord High Steward of *England*, Lord High Conſtable of *England*, (which by Marriages and

Deſcent had been Incorporated in the Royal Line,) Lord Chancellor, or Lord Keeper of the Great Seal, Lord Treaſurer, Lord Privy Seal, Earl Marſhal, Lord Admiral, Warden of the Cinque Ports, Governour of *Ireland*, (the Chancellor of the Exchequer, Maſter of the Wards, Secretaries of State, two Chief Juſtices, and Chief Baron not being to be ranked with the *Peers*) may always be choſen by the approbation of both Houſes of Parliament, (the Houſe of Commons being never before accompted equal with the Houſe of Peers, in Birth, Honour, Wiſdom, Education, Alliance, or Eſtate,) and in the Intervals of Parliament by the Aſſent of the Major part of the Councel, in ſuch manner as was before expreſſed in the choice of Councellors, (which in a matter of a much leſs conſequence in the Government of the Kings Houſhold, was ſo little endured by the Nobility of *England*, in the 10th year of the Raign of King *Richard* the 2d, as it was adjudged an incroachment upon Regal Authority, and high Treaſon, and ſome great Lords ſuffered in their Perſons and Eſtates for it, and others glad to receive their Pardons for being confederate or Privy thereunto.)

4. That he or they unto whom the Government, or Education of his Children ſhall be committed, ſhall be approved by both Houſes of Parliament, and in the Intervals of Parliament by the Major part of his Council, in ſuch manner as was before expreſſed in the choice of Councellors, and that all ſuch Servants as are now about them, againſt whom both Houſes ſhall have any juſt exception ſhall be removed (which before they had diſclaimed, as Mr. *Ruſhworths* Hiſtorical Collections Printed, and allowed by them not long before had informed us)

Ruſhworths Hiſtorical Collections.

5. That no Marriage ſhall be concluded, or treated for any of his Children with any Forreign Prince, or any Perſon whatſoever abroad, or at home without the conſent of the Parliament, under the penalty of a Præmunire unto ſuch as ſhall conclude, or treat any Marriage as aforeſaid, (which they had as aforeſaid diſclaimed) and the ſaid penalty ſhall not be pardoned, or diſpenced with, but by the conſent of both Houſes of Parliament, (that lower Houſe never having before, or ſince any power of pardoning or diſpenſation, nor that higher without the Sanction or Authority of their Soveraign.)

6. That

6. That the Laws in force againſt Jeſuits, Prieſts, Papiſts, and Recuſants be put in execution without any Toleration or Diſpenſation to the contrary, and that a courſe may be enacted by Authority of Parliament to hinder them from making any diſturbance in the State or Law, by Truſts or otherwiſe.

7. That the Vores of Popiſh Lords in the Houſe of Lords may be taken away ſo long as they continue Papiſts, and that his Majeſty would conſent to ſuch a Bill as ſhall be drawn for the Education of Children of Papiſts by Proteſtants in the Proteſtant Religion, which was to take away the Priviledge of Barons holding by Tenure without conviction for Treaſon, and of Earls, Viſcounts, Marqueſſes or Dukes, which ever ſince the beginning of the Raign of King *Richard* the 2d. were by that, and all ſucceeding Kings Letters Patents, to have *vocem locum & ſedem in Parliamentis.*

8. That his Majeſty would be pleaſed to conſent that ſuch a Reformation be made of the Church Government and Liturgy as both Houſes of Parliament ſhall adviſe, wherein they do intend to have conſultation with Divines as is expreſſed in their Declaration to that purpoſe, and that his Majeſty will continue his beſt aſſiſtance unto them for raiſing of a ſufficient maintenance for Preaching Miniſters through the Kingdom, (when there was no want of the Orthodox more Loyal and better ſort) and that his Majeſty would be pleaſed to give his conſent to Laws for the taking away of Superſtitions and Innovations, and of pluralities, and ſcandalous Miniſters, (which in their accompt were only of the Church of *England* and Loyal)

9. That his Majeſty would be pleaſed to reſt ſatisfied with the courſe that the Lords and Commons have appointed for the ordering of the *Militia*, until the ſame ſhall be further ſetled by a Bill, and that his Majeſty would be pleaſed to recal his Proclamations and Declarations againſt the Ordinance made by the Lords and Commons concerning it, (which was to take away the Tenures, the Power of the Sword, and defence of his People.)

10. That the Members of either Houſes of Parliament, as have during the time of this preſent Parliament, been put out of any Places or Offices, may either be reſtored

to

to their Place or Office, or otherwiſe have ſatisfaction for the ſame, upon the Petition of that Houſe, whereof he or they are Members.

11. That all Privy Counſellors and Judges may take their Oath, the form thereof to be agreed on and ſetled by Act of Parliament, for the maintaining of the Petition of Right, (which was in many things more than ever they could claim, or ever had, or could by Law have any Right unto,) and of certain Statutes made by this Parliament which ſhall be mentioned by both Houſes of Parliament (as if they were in all Duty and Loyalty bound to make him a glorious King, thought they could never have unking'd him enough, and brought him to their murdering ever to be abhorred Tribunal,) and that an inquiry of all the Breaches and Violations of all thoſe Laws may be given in charge by the Juſtices of the Kings Bench, and by the Juſtices of Aſſize in their Circuits, and Juſtices of the Peace at their Seſſions to be preſented, and puniſhed according to Law.

12. That all the Judges and Officers placed by approbation of both Houſes of Parliament may hold their places *quam diu ſe bene geſſerint.*

13. That the Juſtice of Parliament may paſs upon all Delinquents, whether they be within the Kingdom, or fled out of it: And that all perſons cited by either Houſe of Parliament may appear and abide the ſentence of Parliament.

14. That the general Pardon offered by his Majeſty may be granted, with ſuch Exceptions as ſhall be adviſed by both Houſes of Parliament.

15. That the Forts and Caſtles of this Kingdom may be put under the Command and Cuſtody of ſuch perſons as his Majeſty ſhall appoint with the approbation of his Parliament, and in the Intervals of Parliament with the Major part of the Council, in ſuch manner as is before expreſſed in the choice of Councellors.

16. That the extraordinary Guards, and Military Forces attending his Majeſty may be removed and diſcharged, and that for the future he will raiſe no ſuch Guards, or extraordinary Forces but according to the Law, in caſe of Actual Rebellion or Invaſion (an Impoſition and Vaſſalage was never put upon any thing that

was

was like a King in Christendom, for the Kings of *Scotland* whilst seperate from *England*, and did homage to our Kings, had, when there was cause enough of fear and jealousie, as now there was none, no such unkingly Vassalage put upon him. King *David* had 24000 men for his Guard, who every Month came up to *Jerusalem*, and our *Saxon* King *Alured* had his Guards by monthly courses.

17. That his Majesty would be pleased to enter into a more strict Alliance with the States of the united Provinces, and States of the Protestant Religion for the defence and maintenance thereof, against all designs and attempts of the Pope, and his Adhærents to subvert and suppress it, whereby his Majesty will be much incouraged and enabled in a Parliamentory way for his aid and assistance in restoring his Royal Sister, and her Princely Issue to those Dignities and Dominions which belong unto them, and relieving the other distressed Protestant Princes, who have suffered in the same cause.

18. That his Majesty would be pleased by Act of Parliament to clear the Lord *Kimbolton*, and the 5 Members of the House of Commons in such manner that future Parliaments may be secured from the consequence of that evil president.

19. That his Majesty would be graciously pleased to pass a Bill for restraining Peers from sitting, or voting in Parliament, unless they be admitted thereunto with the consent of both Houses of Parliament, which would have made him such a King as never was, or can be found in any Christian or Heathen Kingdom or Nation, and themselves such Subjects as until they could agree the matter amongst themselves, or they should be couzened by some Republicans,and those publick Plunderers by some *Cromwel* cheat, those kind of extraordinary mad Men and Fools of both Sexes, must have been all Kings, Queens and Princes, and that which they would have called their King, to be but as a shadow or semblance, or none at all; (which would have restrained the King from all power that other Kings and Princes had to reward men of merit ; when as *Joseph* had the Honour done him by *Pharaoh*, that they should make him ride the second Chariot, and cry before him, Bow

Geneſis ca. 41. *v.* 43. *Eſther ca.* 6. *v.* 8, 9.

the Knee, and as *Mordecai* who had preſerved King *Ahaſhuerus* Life, was *Arrayed with the Royal Apparel, and rode upon the Horſe on which the King uſed to ride, with the Crown Royal on his Head, and the Horſe to be led by one of his greateſt Princes through the Street of the City, who ſhould Proclaim before him, Thus ſhall it be done to the man whom the King delighteth to Honour.*)

All thoſe (or which) their humble deſires being granted by his Majeſty, they ſhould faithfully apply themſelves to regulate his preſent Revenue in ſuch ſort as may be for his beſt advantage, and likewiſe to ſettle ſuch an ordinary and conſtant increaſe of it, as ſhall be ſufficient to ſupport his Royal Dignity in Honour and Plenty, beyond the proportion of any former Grants of his Subjects, of the Kingdom of his Majeſties Royal Predeceſſors.

And what he owed to himſelf, his Poſterity, People, Prudence, Honour and Dignity, as to have granted what they deſired, they would too eaſily have obtained their advantages of bereaving him of his Monarchy by ſuch their Propoſitions not fit to be adviſed, and Petitions neither to be made or granted, more than *Pepin* the Mayor of the Palace at *Paris* ever had, when he perſwaded the laſt King of the *Merovignian* Line to indulge his eaſe, & leave all his Affairs of State to his care & manage, which brought that Prince within a ſhort time after to be ſhaved, and put into a Monaſtery, and the great *Charles* or *Charlemain* Son of *Pepin* eſtabliſhed King of *France*, or the like opportunities, which *Hugh Capet* the Anceſtor of the now King of *France*, had by his getting the Rule and Reins of the Government into his own hands, which did the like to the Family of that Great *Charles*, and placed himſelf, and his ever ſince flouriſhing Lineage in that Throne.

And would make him as ſmall a King as *Ariſe Evans* a Fanatick Taylor in Black Fryers in *London* had propoſed, (when Sir *James Harrington* had modelled his Government of *Oceana*, Mr. *Henry Nevil* his *Plato Redivivus*, and Mr. *Charles*, *George Cock* his Houſhold of God upon Earth, and every one would be buſy as he could in ſhooting of his bolt) *That a King ſhould be Elected out of the Pooreſt ſort of Men, and have an* 100 *l. per Annum for his care and pains to be taken in the Government*, which would have

have been much better than the aforeſaid 19 careful manackling Propoſitions, when the Parliament muſt have been the King, and the King only executive and as the Subject, and the Parliament from time to time impowered to make Laws contrary to thoſe which he and his predeceſſors had made and governed by, and when they pleaſe is to execute quite contrary, and procure a pardon when he can of God Almighty for it.

And having by the help of their Seditions and Rebellion gained as they hoped a new *Magna Charta* for themſelves as repreſentatives for the people, their next care and induſtry were employed not only to guard and keep what they had thought themſelves poſſeſſed of, but to add as many more advantages unto them as the preſſures and neceſſities of their King might join unto them, and therefore when the Noble General *Monke*, after Duke of *Albemarle* had by Gods mercy to King *Charles* the 2d under the mask of a Commonwealth by his wary conduct in almoſt a miraculous manner reduced the King to his Kingdoms, Dominions and Monarchick Rights, without, as the Parliament Rebels would have perſwaded him, the taking of the Rebellious *Covenant*, or the abſtracting of any of his Regal Rights, they did ſo contrive their matters, as in an Act of general pardon larger than ever was granted by any of our Kings of *England* with ſome ſmall exceptions, prepared by two Serjeants at Law, that had Sailed along with the Wind and Tide of that long laſting Rebellion, they had beſtowed upon it an eſpecial præamble, *That whereas divers Rebellions and Inſurrections had been by vertue of divers Commiſſions of the King, and of the Parliament, as if any could be guilty of High Treaſon, or other Miſdemeanors, or could forfeit, that acted by the Kings Authority, the King had pardoned all Treaſons, Felonies, &c.* And as if they had nothing more to incroach upon the Monarchy, did take it to be a breach of they knew not what Priviledge for their murdered King to ſend for a Printing-preſs from *London* to *York* or *Oxford*, and the Members of the Houſe of Commons in Parliament, after that huge pardon granted by King *Charles* the 2d of the forfeiture of all the Lands in *England*, which were in the Rebels poſſeſſions, with all their rich Goods and Chattels, together with another Act to *unbaſtardize their Children, and unadulterate*

terate their Fathers and Mothers faſtened, and entailed upon them by a new Fanatical way of Marriage before Juſtices of Peace, as if they were only to part a fray, or keep them from fighting, for which they ſeemed not to be at any reſt or quiet with themſelves, until every County, City, Burrough, Market-Town and Corporation, or Company of Trade had attended his Majeſty with Addreſſes of huge proteſtations of Loyalty and Obedience, and the expence of their Blood, Lives and Fortunes, and all that could be dear unto them, yet too many of them could after make their counterfeit Loyalty, with promiſes to live and dye with him to amount unto no more than the breeding of Factions, and diſlike of his Majeſties mild and tender-hearted Government, lampooning and ſcandalizing him, robbing and pilfering his Royal Revenue, whereby to encompaſs him with all manner of importunate neceſſities, as if the cheating and miſuſing of Kings had been no ſmall part of their Prærogative, contrived a moſt abominable Aſſociation upon him and his Royal Brother, his now Sacred Majeſty, to murder and ruine them as they were to come thorough a narrow Lane from *Newmarket* to *London* in the ſame Coach, and being diſappointed therein, proceeded to infect as much as they could the Parliament, that ſhould have been his beſt and moſt wholſom Counſel, to make and enter into an Aſſociation upon their Oaths without their King, to exclude and baniſh his Royal Brother, his now preſent Majeſty, and his Heirs and Succeſſors, from the Royal Succeſſion, for that he was ſuſpected to be addicted to the Religion of the Church of *Rome*.

Copy of the Bill of Excluſion in the paper ſeized in the Earl of *Shaftsbury*'s Cloſet in *Anno* 1681.

Which being by the King and major part of the Houſe of Lords contradicted, a Force and Inſurrection was contrived, and enough as they hoped liſted and made ready to accompliſh it; but it being diſcovered by ſome that had been perſuaded to aſſiſt therein, and ſome of the Nobility being according to Law attainted of High Treaſon, and forfeited, they would not leave proſecuting of him with their Plots and Deſigns, until God the Appointer of Kings had called him to his mercy from them that would have no mercy for him.

And having thus long abuſed their Kings with their Rebellions, and brought a long laſting Series of miſchief and miſeries upon their ſeduced Followers, could not reſt

ſatisfied

ſatisfied if they ſhould not give more Credit to their New Commonwealth-Mongers, that would entitle them to the only power of ſummoning, proroguing, adjorning or diſſolving of Parliaments, and manackling of their Kings and Princes, and did not think they had enough eſtabliſhed it and themſelves, if they had not, when for Loyalty or any ſuch matter they were to eject any of their Fellow-Members, cauſed them to receive their Sentence upon their Knees, although they had committed no Offence, neither ſupplicated for any pardon, or had it.

And another being as willing as ſome others to adore his own fancy without any evidence of Truth, Law, or Right Reaſon, in his Wringing. Wreſting and Torturing of Tropes, Metaphors, Allegories, Improprieties of Words or Phraſes beyond their Right or common uſe, or what he had picked together out of ſome lying Manuſcripts, and abuſed Records by omiſſions of truths, whereby to put his vain and groundleſs imaginations into ſome frame and method, hath in his Book Printed and Publiſhed, endeavoured to make the Houſe of Commons to be an *Eſſential and Conſtituent part of Parliament, and to have a votum Deciſivum therein*. and hath therein committed more dangerous errors than the late Author of the Theory of the Earth, in his endeavouring to prove *Noahs Flood* to have been more from natural cauſes than the product of God Almighty's Will and Infinite Power, declared by his more eſpecial Servant *Moſes*, ſufficiently confuted by the Reverend Father in God *Herbert* Lord Biſhop of *Hereford*.

Animadverſions on a Book called the Theory of the Earth.

And it muſt needs be ſaid that he hath over-dangerouſly handled *Joves Thunder-bolts*, and made himſelf as inſtrumental as he could to take the Soveraignty from the King, and beſtow it upon the People, whom he and his *Opiniotretees* would ſuppoſe to be repreſented in Parliament, whereas he ſhould have only ſaid, it was a conſtituted part of the Parliament from the 49th year of the Raign of King *Henry* the 3d *ſub modo & forma* during that Kings Impriſonment under *Symon Montfort* Earl of *Leiceſter* and his Rebel Aſſociates, and were neither in Authority or Degree the ſame with the more Honourable, and better Eſtated Houſe of Peers, although in that then conſtituted Houſe of Commons in Parliament there

Dr. *Brady* in the Hiſtory of King *Henry* the third.

were to be four Knights out of every County in *England* to be Elected and ſent thither, (few of them appearing) and that more or leſs they might have claimed, as they have lately done the ſummoning of the Peers and the Nobility of the Kingdom, Electing the Members of the Houſe of Commons in Parliament, and they repreſenting all the People, might more eaſily have continued and maintained their Poſt and Station of a never to be proved ſenſeleſs and reaſonleſs Soveraignty, which was not to be ſeen, heard or read in this Kingdom, either in the time that it had been a *Roman Colony*, or of the Great *Arthur*, or the *Saxon Heptarchy*, *Norman Conqueſt*, and our many ſince ſucceeding Kings and Princes, and is, and hath ever been attended with ſo many poſſibilities of ſetting People together to kill, deſtroy and ruin one another, as hath no where in the habitable World, but in our late Engliſh Frenzy and Infatuation, and moſt egregious Hypocritical pretences of Religion, whilſt they for almoſt fifty years together, imployed their Godleſs time in murdering of their Kings and Laws, and the one half or more of their Fellow-Subjects Lives and Eſtates, and that Author can never prove that there are two *Supreams*, nor find any way to agree them, which ſhould be uppermoſt, or which the lowermoſt.

And what *pro Deus atque hominum fidem*, could thoſe liberties be, that they by a pretence of Reformation of grievances of their own making had uſurped upon their King, to mould themſelves and their wicked fellow Complotters into a Republick, as they would have it ſtiled, when it proved to be nothing but a Society of Rapine plunder and villany, whereof their Regicide *Oliver Cromwell* had afterwards cheated them, and was almoſt as great a miſtake in what a very learned Judge had ſaid, when he was Member of the Houſe of Commons, that the King was primarily a Truſtee for the People, yet it could not be ſo affirmed by any Truth, Rule or Law of God or man as immediately from or by them, but only as immediately from or by God commanded to take care of his People.

And a wrongfull miſinterpretation hath been endeavoured to be put upon ſome part of our Reverend Mr.

Hookers

Hookers Book of Eccleſiaſtical Policy, as if he had poſitively affirmed, that the King was a Truſtee for his People (as he is doubtleſs for his protection) when the late learned Dr. *Sanderſon Biſhop of Lincoln*, hath affirmed unto me that he having heedfully, peruſed the Book written with Mr. *Hookers* own hand could diſcover no ſuch words therein.

Hookers Eccleſiaſtical Policy, & *Iſaack Walton in vita ejuſdm.*

So here is complexedly met and united a Syſteme, and a Maſs of the Conſpiracies, Factions, Seditions, Treaſons and abominable confuſions put together and agitated, ſometimes at one time, and after at others, from the later end of the Raign of King *Richard* the firſt until the Raign of King *Charles* the 2d in the dream of the Election of our Kings and Princes in the Rebellion at *Running Mede*; ſome Barons in the Raign of King *Henry* the third threatning to chooſe another King, and enforcing of Conſervators of the Liberties of the People, in the proviſions Derogatory to Kingly Government made at *Oxford* in the Raign of King *Henry* the third, and conſtrained of King *Edward* the ſecond.

And might have happened into a queſtion unanſwerable, what miſchief our *Magna Charta*, or *Charta de Foreſta* had done unto our Nation, or upon what other cauſe or reaſon thoſe excellent Laws were granted by our King *Henry* the 3d, and ſo dearly beloved, as they thought themſelves utterly undone if they had not with the 15th part of their Moveables obtained them *eiſdem modo & forma*, without any ſubſtraction or addition, the ſame which have been continued & confirmed by their ſeveral Kings and Princes above thirty times, and was ſuch a caution in one of their Parliaments, as the Biſhops in their ſeveral Dioceſſes were impowered to Anathematize all the Infringers thereof; and King *Henry* the 3d in that direful Proceſſion was conſtrained to walk through *Weſtminſter*-Hall the Abby-Church of *Weſtminſter*, with all the Biſhops, Earls, Barons and Nobility of *England* and *Wales*, holding burning Tapers in their hands, (the King only refuſing after the reading of the aforeſaid *Magna Charta's* freely granted by that King, and likewiſe that enforced upon King *John* his Father) and throwing down their Tapers, wiſhing that the Souls of the Infringers thereof might ſo burn

burn and fry in Hells everlaſting fire, being ſuch a curſed obligation as was never enforced upon any King or Prince by their people in any Nation of the World, and might if Right had been done unto that diſtreſſed King, have been deeply cenſured *in foro Animæ & gratitudinis.* And if thoſe *Magna Charta's* have been ſuch a darling of the people as they ſeemed to value it as their Blood and Eſtates, how could they fall ſo much out of their love as they would do all that they could to be rid of them, as if they had been *Circe's* Swine tearing them in peices, when they are for the moſt part a compleat *Syſtem* or figure of our Antient Monarch Feudal Laws, and every Chapter therein loudly proclaim them to be no otherwiſe.

And what have we got in Recompence of the overturning of our beneficial and ever to be praiſed Feudal Laws, bnt the forfeitures of all our Lands and Eſtates, if God and the King ſhould be extream and mark what is done amiſs.

Or can any man of Learning Reaſon or Underſtanding, or any but one that is or hath been mad without Lucid Intervals, believe that St. *Edward* the Confeſſors Laws have not deduced their Original for the moſt part, if not all, from the Feudal Laws, when by the ſolemneſt and greateſt Jury of the World impannelled by King *William* the *Conqueror*, they appeared *ſine dolo & malo ingenio*, to be no other than our Feudal Laws by which the Soveraignty did appear to be in the King, (not the People) by which our Kingdom had been Governed, and did bear as near a reſemblance thereunto, as one Hen Egg doth or can unto another in ſhape or figure.

And what ſtrange kind of Imaginary Soveraignty radically or otherwiſe at any time was believed to reſide in the people, when the Pope and his Legate *Pandulphus* made our affrighted King *John* to do homage by laying do wn his Crown and Scepter at the feet of his Legate, *multum dolente Archiepiſcopo Cantuarienſi*, ſaith *Matthew Paris*) nor was the Tribute paid or thought fit to be paid thereupon for the Kingdoms of *England* and *Ireland*, though demanded of King *Henry* the third his Son, or *Edward* the firſt his Grandſon, but by all our Kings and Princes neglected, it being an allowed

Mat. Paris.

lowed Maxime in our Law that *Angliæ Rex nunquam moritur*, which could not be if all the People had been underſtood to have been Soveraigns.

Or can any man believe that our *Engliſh* Anceſtors did not think St. *Edward* the *Confeſſors* ſaid Laws to be *tantum ſacræ*, when they hid them under his Shrine in the Church of *Weſtminſter*-Abby, and afterwards *precibus & fletibus* obtained of him to be Governed by them. *LL. Edwardi Confeſſor. & Chronicon Leichfeildenſ.*

Which *William* the Conqueror would not have granted until he had by the aforeſaid grand Jury examined and compared them, *per ſapientes & viros in Lege eruditos*, and the People of *England* and *Wales* have ever ſince, being about 619 years, never believed their Lives, Eſtates and Poſterities to be in any kind of ſafety, if the Conqueror and all the ſucceeding Kings and Princes did not at their ſeveral Coronations take their Oaths to obſerve moſt eſpecially St. *Edward* the Confeſſors Laws, which they never failed to do, and hath been ſo taken both by his late Majeſty, and this our preſent King.

And it would be a ſtrange forgetfulneſs of Duty, and our Oaths of Allegiance and Supremacy, (upon which, and no other our Feudal Laws are built) to forget them, and the care of our Souls, which the *Britaignes* in *Armorica* in *France* could never do ſince the dread and fear of the cruel Invaſion of the *Scots* and *Picts* making them forſake their Native Countrey of *England*, and retire where they now are, where they yet retain their Antient Feudal Cuſtoms uſed in *England*; which is that *Ligeance eſt ordinaire en tous fiefs la quelle de ſa nature emporta obeyſſance du vaſſal foy homage & autre les droits & devoirs contenus en l'infeodation & anciens advouz & tenures.*

L' homage lige ce fera en ceſte forme ſcavoir que le vaſſal l' Eſpee & Eſperons oſtez teſte nue (ayant les mains entre celles de ſon Seigneur & ſe enclynant) dira telles

Cuſtumis de Bretaigne in Francep. 136. 137. & 138.

paroles mon Seigneur Je deviens voſtre home Lige pour telles choſes leſquelles Je releve & tien de vous ligement en tiel voſtre fief & Seigneurie leſquelles choſes me ſont advenues par tels moyens a cauſe de quoi Je vous doy la foy & homage lige & vous promittes par ma foy & ſerment vous eſtre Loyal & feable porter l' honneur & obeyſance & envers vous me gouverner aynſi que noble homage de foy lige doit faire envers ſon Seigneur Le Seigneur reſpondra come ſenſuit vous devenus mon home pour rayſon de tales choſes par vous dites & de choſes en tel me promittant que vous me ſerra feal & obeyſant home & vaſſal ſi que voſtre fief le requier & le Subject reſpondra Je le promets ainſi & lors le Seigneur dira Je vous y recen ſauf mon droit & de l' autrui.

Inſomuch as when all the aforeſaid concurrences of the Laws of God and Man, Records and Annals, Truth and rectified Reaſon ſhall be united and laid together, he muſt be an ill Subject, and a very great Infidel that cannot with great aſſurance believe that the Bleſſed Martyr King *Charles* the firſt, and his late Royal Majeſty, and our now Gracious Soveraign have been much wronged in their Regal Rights, Revenue and Authority, and had as their Bleſſed Father been made likewiſe Martyrs, if the Divine Providence of God had not in favour unto a ſinful People prevented thoſe very often attempts of Villany.

And may put us thus preſerved from a ruin and confuſion impending upon a Nation, (as unto too many of them) nurſed and enriched by plain or palliated Diſloyalty, ſeeing his now Royal Majeſty his Indulgent Brother, and Pious Father, have taken their Coronation Oaths to obſerve the good Laws of King *Edward* the Confeſſor, which are the ſame with our ſo often confirmed *Magna Charta*'s, and *Charta de Foreſta*, the Bleſſings of this Nation, and ordained by Act of Parliament to be read in all the Cathedral Churches of *England* and *Wales*, the Infringers whereof have been as aforeſaid ſo bitterly Anathematized.

And

And that the Honour, Dignity and Strength of the Nation may no longer remain Ecclipſed, and that our weakneſs in the want of our moſt Honourable and Ancient Monarchick Fundamental *Feudal Laws* may not be told, or made uſe of in *Gath* and *Aſkalon*, and that our King may not be without the means to defend himſelf and his People, and avoid the diſadvantages and damages which Forreign Princes and his Allies may put upon him in all his Leagues and Treaties with them concerning his Imperial and Monarchick Crown and Dignity, and in matters of Commerce, wherein all his People are not a little concerned, and that there is now more reaſon and neceſſity than ever was that the Temporal Nobility, the principal and moſt concerned part of the Nation, ſhould, as they did in a Parliament at *Merton*, publickly and ſeriouſly declare that *noluerunt mutare Leges Angliæ.*

Collapſa ruunt ſubductis tecta Columnis
Moribus antiquis ſtant res Britannæ vireſque.

FINIS.